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**JUSTICE**

National Offender  
Management Service



**CabinetOffice**  
Office of the **Third Sector**

# Reducing Re-offending Through Social Enterprise

Social enterprises working with prisons and probation  
services - a mapping exercise for  
National Offender Management Service

CONCILIUM - November 2009



**European Union**  
**European Social Fund**  
Investing in jobs and skills





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## About this report

The primary purpose of this report is to inform NOMS about the current level of activity of social enterprises working with prisons and probation services in England. Its secondary purpose is to assist the social enterprise sector to position itself to develop new opportunities identified by the findings. The report is structured to meet these two purposes:

- An executive summary - a short summary of the key findings and recommendations
- Part 1 of the full report - background, methodology and context
- Part 2 of the full report - detailed findings from the data collection
- Part 3 of the full report - analysis of the findings, signposting future opportunities, summary and recommendations

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### Disclaimer

The views expressed in this report are those of the authors and do not necessarily represent those of the Social Enterprise Coalition, the National Offender Management Service or any other government department.

# Executive Summary

## Part 1. The research in context

This research was commissioned in May 2009 by the Social Enterprise Coalition on behalf of the National Offender Management Service. The research was funded by the Office of the Third Sector.

The research brief was to:

Evidence what and where social enterprise activity is taking place within prisons and probation services in England

The research was to:

- Develop learning points based on Best Value and Social Return on Investment models
- Quantify the scale and scope of social enterprise activity
- Identify any positive or negative aspects of involvement with the social enterprise sector for NOMS
- Identify structural barriers to entry for the social enterprise sector in each part of NOMS
- Identify gaps in provision, models of good practice and opportunities for replication

The research was carried out between May and August 2009 by Concilium, using a mixed methods approach.

- Conducting semi-structured telephone interviews with prisons and probation services
- Conducting extended interviews with a smaller sample group of prisons and probation services
- Conducting an on line survey with social enterprises that are currently working with prisons or probation services or would like to do so
- Conducting semi-structured telephone interviews with a sample group of social enterprises working with prisons and probation services
- Undertaking desk research to produce a policy review on NOMS and social enterprise and the implications of introducing the Best Value process to the probation service, with regard to working with social enterprises

In undertaking this work, 100% of probation services and 72% of prisons were interviewed. In total, 38 extended interviews took place with prisons and probation services, 20 with prisons and 18 with probation services. 82 social enterprises completed the on-line survey and 18 social enterprises were interviewed.

The full report includes an analysis of the data from each of these sources, a series of case studies showing examples of how social enterprises are currently working with prisons and probation services and a series of recommendations for NOMS and the social enterprise sector to address.

The research only partly quantifies the level of activity taking place within NOMS by social enterprises for two key reasons:

- The level of confusion amongst many prison and probation staff about the definition of a social enterprise and the distinction between social enterprises and the wider third sector
- The majority of services delivered by social enterprises are not directly contracted and paid for by prisons or probation services but by a diverse range of third parties, including other statutory agencies (Primary Care Trusts, Learning and Skills Councils), charitable trusts and in some cases by the social enterprises' own earned surpluses

Furthermore, there was a lack of evidence of evaluation or social impact measurement taking place, through which NOMS can assess to what extent social enterprises are helping to achieve its goals.

## **Part 2. Research findings**

The research found positive interest both in probation and prison services in working with social enterprise and the opportunities for service development that social enterprise models can offer.

Of the research respondents 47% of prisons and 95% of probation said they were interested in developing social enterprise and wider third sector work in the future. Within both services, the strategic decision to focus on core statutory competencies around enforcement and harm minimisation has created a requirement for external agencies to provide services in many other non-core support areas.

The key advantages of social enterprise service provision that were identified included cost savings, provision of specialist expertise, creation of local community links, ability to engage with hard to reach clients and innovation and creativity of service methods.

There is evidence from prisons and probation services and from social enterprises that a significant amount of work with prisoners and probation services is being delivered by social enterprises. The largest number of social enterprises is working within the NOMS strategic pathway of Education, Training and Employment (ETE). Community Payback is providing many opportunities for social enterprises to work with probation services. There is little evidence of social enterprises being contracted by prisons and probation services to deliver the core services that they might

purchase from a private business. The only examples of this type of transaction were in catering.

The main type of working relationship between prisons and probation services and social enterprises is with independent, well established or new social enterprises delivering services mainly contracted by or funded by third party agencies. These range from Turning Point, a large national social enterprise contracted to provide services with a number of prisons and probation services; to Leeds City Credit Union providing saving services to prisoners at two institutions and securing a grant from a charitable trust to support a prison based money management worker.

We also encountered a number of ‘special purpose vehicles’ set up by prison or probation staff to provide work opportunities for offenders and to earn income and access grants that would not be accessible to prisons or probation services. Some of these special purpose vehicles could be considered to be social enterprises, or have enterprising elements with potential to develop into independent social enterprises. However, there were issues identified relating to the rules governing the activity that can take place in a prison or a probation service. This has particularly been the case in relation to setting up separate legal entities within a prison or probation service for trading activity, and setting up separate business bank accounts that attempt to operate according to business principles rather than Treasury rules. As a result there are some concerns about developing more social enterprises as ‘special purpose vehicles’, prior to clarification of the rules affecting their ability to function with the level of independence required for a sustainable enterprise.

The research identified some cultural and structural barriers affecting the ability of social enterprises to deliver services to prisons and probation services. Some of these are related to the way that probation services and, in particular prisons, are run. For example, social enterprises creating work experience and vocational skills training within prisons are limited by the frequent movement of prisoners.

Other cultural barriers cited by both social enterprises and prison and probation respondents included prison and probation staff’s suspicion of the competence of some external service providers and, in some instances, resistance to services that were being delivered by prisoners, probationers or ex-offenders - often a key focus of the social enterprise’s work.

Other barriers identified by social enterprises relate to the tensions created by budget and staffing cuts. For example, social enterprises can frequently provide work opportunities at a lower cost than the prison or probation services but the support, training and supervision required from prison or probation staff limits the amount of work that outside agencies can undertake, as staff do not have the time to facilitate the activity.

It was recognised by many of the social enterprises surveyed that working in prisons and probation services is a high risk environment which necessitates an operational culture to minimise risk. Nevertheless, when translated to managing a business relationship, being risk averse is seen as a hindrance.

There were many areas of work in which both prison/probation staff and social enterprises recognised opportunities for future development. Prison and probation identified further opportunities specifically in services for substance abusers, work experience, training and Community Payback. Social enterprise respondents already working with prisons and probation services thought that they could do more and provide a wider range of services. Others working with clients that had been through the criminal justice system, or who were at risk of doing so, also recognised that they could work more directly with prisons or probation services.

## **Part 3. Future opportunities and recommendations**

### **3.1. Actions to create more social enterprise opportunities**

Actions which would help to create more social enterprise opportunities were identified in a number of areas:

- Replication of existing social enterprise activities in other prisons or probation services, for example setting up relationships between credit unions and prisons based on the systems and templates developed by Leeds City Credit Union; creating opportunities for more catering services and prison visitor services to be delivered by social enterprises such as pact lunch and The Clink
- Enabling more social enterprises to deliver services that reduce re-offending, by open communication and promotion of available opportunities using existing social enterprise networks
- Building on experience where there are proven areas in which social enterprises are successfully delivering services, in particular the ETE pathway and Community Payback
- Creating more knowledge of social enterprises within NOMS so that this option is explored in areas where there are identified gaps in provision, such as within the Drugs and Alcohol pathway
- Creating mechanisms through which social enterprises can be commissioned to deliver core services, part of which may take place under the introduction of Best Value to the Probation Service.

### **3.2. Recommendations for NOMS**

The recommendations for NOMS based on the findings of this research are:

Recognition in policy and practice of the value that social enterprises contribute towards reducing re-offending targets and their capacity to

provide additionality. Promotion of this to Directors of Offender Management (DOMs) and to individual prisons and probation services.

An awareness-raising programme for relevant staff within the prisons and probation services about social enterprises, and signposting to sources of advice and support, including how to build successful relationships with social enterprise providers. Heads of Reducing Re-offending in Category D prisons were seen as particularly important roles.

Clarification of issues such as: how does the board of a social enterprise sit alongside the board of a Probation Service Trust? What are the social enterprise boards' legal liabilities? Would there be unfair advantage issues around contracting with a 'special purpose vehicle' under the competition and contestability guidelines? What are the alternative models that are possible within Trust status? Once clarified, these issues should be included in the awareness-raising programme.

Making use of lessons learned from elsewhere in the public sector about the process of engaging with social enterprise as a delivery model. In particular, Probation Trusts could adopt approaches developed in local authorities and within the NHS.

Specific policy development within NOMS and DOMs to ensure that there is a consistent and transparent approach to commissioning services, in particular under Best Value.

Continuing to develop innovation in commissioning with other agencies in health, education, etc.

Development of impact measurement of the work undertaken by third sector providers in general and social enterprises in particular. This could include requesting sight of monitoring and evaluation materials commissioned by third party funders.

Developing an understanding of the benefits of, and promoting, the tools that are available to measure the impact of social enterprises, including Social Accounting and Social Return on Investment. Investing in this process will help to demonstrate achievement towards key outcome targets.

An evaluation of the various models of 'special purpose vehicles', including failed examples, in order to identify critical success factors for the replication of this model.

Promoting the process of successful commissioning of services from existing social enterprises, including promoting to prisons and probation services the opportunities to replicate models of good practice.

Reviewing issues relating to certain types and levels of prison procurement being routed through the central procurement unit, which is seen as a barrier to some innovative initiatives.

Actively seeking to identify existing social enterprise service providers from which to procure services and through which to access additional third party funding for projects, as a more likely sustainable option than investing in starting up a social enterprise as a 'special purpose vehicle'.

Building relationships with social enterprises through the Regional Social Enterprise Networks, to find out which providers are available in the regions and to open a discussion about the commissioning process.

Ensuring that information is provided on a regular basis to the regional Social Enterprise Networks about: all relevant consultations, partnership development opportunities, new service specifications, performance indicators and unit costs, up and coming tenders and supply chain opportunities.

Providing clearer guidance around CRB checks and security requirements for working in prisons.

Investigating opportunities for risk assessments that enable prisoners to participate in work experience to be carried out earlier in the sentence to enable prisoner participation in schemes helpful to their employability on release.

In line with the commitment to the Compact with the wider third sector, contracts should be issued for a minimum of three years.

### **3.3. Recommendations for social enterprises**

The recommendations for social enterprises based on the findings of this research are:

Social enterprises that already work with offenders and ex-offenders and want to develop new services should ensure that they are aware of gaps in NOMS provision where they could offer high quality supported work places and build bridges to external employment.

Social enterprises should make contact with DOMs and ensure that they are known as organisations that currently deliver services or are keen to do so. They should keep informed about the commissioning and procurement timetables relating to work relevant to the services they provide.

Social enterprises should understand and be able to manage their unit costs so that they are ready to bid to probation services under the new Best Value regime.

Social enterprises should produce evidence of the added value they could offer to probation services under Best Value and promote additionality to prisons. In order to do this they should set up appropriate monitoring

systems and measure their social impact through recognised tools such as Social Accounting and Social Return on Investment (SROI).

Social enterprises should ensure that they have institutional and cultural knowledge of NOMS, and in particular understand the requirements of NOMS' practices and systems, approach to risk and required behaviours.

Where social enterprises are already working in prisons they should investigate the possibility of obtaining key holder status to improve recognition of the service provided amongst service users and to reduce reliance on and resource requirements from prison staff.

Social enterprises delivering services to NOMS should identify options to franchise or otherwise roll out their delivery methods using social enterprises in other regions as delivery agents, or social franchising models, in order to meet NOMS (especially prisons') requirements for continuity or services regardless of where prisoners are transferred or released. They should also identify methods of scaling up their own businesses and seek to work in partnership with NOMS to do so.

### **3.4. Additional recommendations relating to Best Value**

Under Best Value, there are many lessons that have been learned in other public sector services that can be adopted by NOMS.

- Development of more outcome-based specifications with performance indicators
- Individual agencies (prison or probation) should identify whether they want to 'make or buy' a service - whether they want to deliver it themselves or decide that it could be provided by an external provider
- Options appraisal for a 'make or buy' decision should include: What are the achievable outcomes for the funder and the customer? An assessment of the financial stability of a provider including opportunities for growth levels of capital acquisition, the size and scale of management capacity, existing levels of long term contracts held and the ability to measure social impact.
- Assess the benefits of commissioning smaller service packages and identify how smaller providers can offer added value
- Recognise additionality within the commissioning process
- Consider supply chain development including social enterprises
- Recognise that open competition is not the only way to prove competitiveness. Models have been developed elsewhere based on quality and price tests, inviting providers on to a panel to test price and value for money and inviting providers to help work up a specification

- Actively engage with Local Strategic Partnerships and the process of working within Local Area Agreement frameworks relating to crime and disorder targets

## Part 1. The research in context

### 1.1. Background

This research was commissioned in May 2009 by the Social Enterprise Coalition on behalf of the National Offender Management Service. The research was funded by the Office of the Third Sector as part of the Government agenda to promote social enterprise as a delivery model across different departments.

The Social Enterprise Action Plan was promoted by Office of the Third Sector (OTS) with the key aims of encouraging the use of social enterprise approaches in addressing policy problems across government and establishing an evidence base of good practice on the role social enterprises can play. In order to promote this agenda, the OTS has established a Social Enterprise Research Fund. Other government departments can bid for funding to identify and quantify the role that social enterprises can play in helping them meet their strategic objectives and address policy problems.

According to the specification for this work:

The National Offender Management Service (NOMS) within the Ministry of Justice (MoJ) has successfully secured funding and is exploring the value of social enterprises within the criminal justice sector through a 'Social Enterprises Reducing Re-offending' project. Specifically, NOMS is seeking greater understanding of the impact of social enterprise across NOMS delivery:

- Strengthening NOMS understanding of the role the sector can play, especially in difficult delivery areas
- Provide a clear evidence base to support policy action in the next spending review period
- Raise the profile of NOMS with the social enterprise sector and develop the relationship between them
- Identify and develop innovative ways of working to enable social enterprises to overcome structural barriers (within NOMS) to their development and growth as service providers.
- Explore ways in which elements of NOMS might develop new enterprises to enhance or support delivery

Concilium was appointed to carry out the research, according to the methodology described in the next section.

## 1.2. Methodology

Concilium took a mixed methods approach to collecting quantitative and qualitative data on the extent of social enterprise involvement, and potential for involvement, with the National Offender Management Service (NOMS).

The main activities of the research were as follows:

- Desk research to review OTS, Ministry of Justice, NOMS and other relevant policies, strategies and communication documents, to identify current support and encouragement for social enterprise in offender settings, structural barriers, engagement, commitment and any other issues relating to policy. This also drew examples from other public sector engagement with social enterprises.
- An online mapping survey to identify social enterprises currently working with offenders and ex-offenders and those organisations that are not currently working with offenders, but would like to do so. This survey provided the opportunity to research a wide variety of organisations to see how social enterprise is or is not interacting with the prison and probation service and why. It also provided data on geographical location, funding streams, benefits and barriers and whether organisations were involved in formal offender services networks.
- Telephone interviews with prison and probation service contacts. These explored the extent to which key prison and probation staff were able to identify social enterprises they were working with and the benefits or otherwise that the service derives. A database of prison and probation contacts was compiled. Interviewers attempted to contact all of the contacts, for as full coverage as possible.

The aim was to contact all identified prisons and probation services. In the event we undertook interviews with 100% of probation services and 72% of prisons.

Extended telephone interviews were conducted to collect qualitative data. These interviews were conducted with an opportunity sample of 38 of the larger group. The interviews aimed to gather further information on the benefits of, barriers to, and attitudes towards, social enterprise activity.

There were four categories of respondent:

- prison and probation service contacts currently working with social enterprises

A number of simple questions were asked to gain data for the mapping exercise. This included questions on: number of referrals, type of offenders or ex-offenders, type of arrangement with the service, a brief enumeration (if possible) and description of the type of activities and

whether there has been any monitoring or evaluation conducted on the impact of this work with the offenders.

- prison and probation service contacts that have not worked with social enterprises

Within the opportunity sample we did not go on to conduct extended interviews with respondents found not to be working with any social enterprises.

- social enterprise contacts that have worked with prisons or probation services

These interviews aimed to gather information on awareness of NOMS within the social enterprise sector. We identified social enterprises by a number of means: social enterprises that had completed the on line mapping survey, that were mentioned as service providers in the interviews with prisons and probation services or were identified by SEC and NOMS as having experiences that would be beneficial to include in this survey. The interviewers conducted in depth, semi-structured interviews focusing on the perceived benefits and barriers to running an offender-related social enterprise and identified any policies or other factors which could improve interaction between these subject areas.

- social enterprise contacts that have the potential to work with prisons or probation services

Within the limited scope of this research it was decided that the focus should be on social enterprises with experience of working with prisons or probation services and in the event only one interview was conducted with a social enterprise in this category.

In all of these strands we attempted to identify possible example or demonstration models, leading to identifying areas for development or models for replication.

## **1.3. Terminology and definitions**

### **1.3.1. Defining social enterprises**

Social enterprise is the umbrella term for ‘independent businesses that trade for a social purpose’.

Social enterprises are not defined by their legal form but by their activities and objectives. Irrespective of the legal form, a mixture of trading and social objectives is the key characteristic of social enterprises. Within the social enterprise sector there has never been a precise, formal definition of what a social enterprise is. Most people are in agreement with the broad

and general term defined by the Social Enterprise Unit (then at the DTI) in 2002:

*“A social enterprise is a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners”*

The Social Enterprise Coalition has identified three defining characteristics:

- Social aims - they have explicit social aims such as job creation, training or the provision of local services. Their ethical values may include a commitment to building skills in local communities. Their profits are principally reinvested to achieve their social objectives.
- Enterprise orientation - they are directly involved in producing goods or providing services to a market.
- Many social enterprises are also characterised by their social ownership. They are autonomous organisations whose governance and ownership structures are normally based on participation by stakeholder groups (e.g. employees, users, clients, local community groups and social investors) or by trustees or directors who control the enterprise on behalf of a wider group of stakeholders. They are accountable to their stakeholders and the wider community for their social, environmental and economic impact. Profits can be distributed as profit sharing to stakeholders or used for the benefit of the community.

The term social enterprise covers a spectrum of organisational types. They range from co-operatives, which are generally commercial trading businesses based on international principals of co-operation (democracy, independence, education etc.) to small community based organisations that aim to provide services to disadvantaged groups, often delivered by volunteers. However, they are all constituted, independent legal entities using legal structures that define these business practices. The most common are: Company Limited by Guarantee, Industrial and Provident Society and Community Interest Company.

Many social enterprises seek to achieve social ownership by enabling people in the communities they support to become members of the business. This often includes individuals in the target community becoming employed by the social enterprise or participating in the governance.

According to the Office of the Third Sector there are some 60,000 social enterprises in the UK (2009). Previously, the 2006 Social Enterprise Action Plan estimated the sector’s turnover at around £27 billion and indicated that 5% of all businesses are social enterprises. The social enterprise sector might question these figures, with the possibility that this included a proportion of other wider third sector organisations.

It is estimated that 33% of social enterprises are involved in social and health care provision.

Social enterprises are more likely to engage in public service delivery (21%) than other third sector organisations (13%).

### **1.3.2. Defining the third sector**

Third sector is an umbrella term for the totality of traditional charities, voluntary and community sector organisations and social enterprises.

During recent years there has been movement within the traditional voluntary sector towards developing trading activities, as grant funding has become more difficult to obtain or has more strings attached. Many voluntary organisations have developed trading activities and some, particularly large national bodies, have become extremely successful. Some have chosen to re-define themselves as social enterprises and some have not.

According to the latest research, 'The State and the Voluntary Sector - Recent trends in government funding and public service delivery' from NCVO in September 2009, there were 170,900 voluntary sector organisations in the UK in 2006/7 with a combined income of £33.2 billion. However, 75% were small or micro organisations and did not receive any funding from statutory bodies. At the same time 27,000 organisations received over 75% of their funding from statutory sources. The largest proportion of this went to social care organisations.

The Government has developed a range of policies and initiatives to encourage the third sector to take on the delivery of public services. In spite of many different initiatives and considerable resources directed towards supporting these changes, the results can be said to be at best mixed.

### **1.3.3. Use of definitions within the research**

In terms of researching social enterprise activity involving the Prison and Probation Services, confusion between the wider third sector and social enterprise has been problematic. The researchers have been forced to address the task of defining which of the third sector agencies working with prisons and probation services are social enterprises and which are not. Two main processes were agreed with the contractors at the early stage of the commission:

- That an 'inclusive' definition of social enterprises would be used, incorporating voluntary organisations that trade and those social enterprises that earn more than 50% of their income from trading

- That the researchers would ask questions of respondents that would enable us to define whether or not organisations were to be considered social enterprises for the purpose of this study. This would provide consistency for the purposes of analysis.

Within the context of this research, social enterprises may therefore be seen to have the following characteristics:

- They are independently constituted businesses
- They are driven by a business agenda
- They aim to meet social as well as financial objectives
- They make profits (or surpluses) that are re-invested into the business to support its social purpose
- They are socially owned - accountable to a wider community through a membership and democratic structure

At each stage of the research we identified respondents that we did not consider to be social enterprises. These included:

- Respondents to the electronic questionnaire that were traditional profit distributing businesses - albeit with some social purpose
- Statutory agencies or QUANGOs named by prison or probation respondents
- Traditional voluntary organisations providing purely social support to prisons or probation services, funded by grants and often delivered by volunteers

When it came to selecting social enterprises to interview in depth, we undertook more detailed checking, seeking information from their websites, from Companies House or the Charities Commission to check their forms of governance.

One further complication that emerged during the interviews with prison and probation staff was that within the varying levels of understanding of these respondents, it became clear that even those who were relatively well informed only considered small, locally based organisations to be social enterprises. Some of the large and relatively well known social enterprises working at national level were not seen to be social enterprises by the respondents to this survey.

#### **1.3.4. Report terminology**

In the light of this complexity and the inherent difficulty of defining social enterprises, we have therefore been very specific in our use of language throughout this report.

Where we have quoted individual respondents we have used the terminology they gave us, however we have not assumed that their definitions are

consistent with ours. Elsewhere, where we have referred to ‘social enterprises’, these meet our definition as described above. Where we have used the term ‘third sector’, this refers to the totality of social enterprises and traditional voluntary sector organisations. Where we have used the term ‘voluntary organisation’ or ‘voluntary and community organisation’, this refers to these organisations alone.

We also refer in this report to some social enterprises as ‘special purpose vehicles’. These are enterprises that have been established by prison or probation staff in order to create opportunities for prisoners or probationers to gain work experience, deliver services and generate income for the prison or probation service involved, either by earning income or accessing grant funding. In the main these organisations have been, or are in the process of becoming, established as separately constituted businesses with independent bank accounts. At the time of writing (September 2009) there are a number of unresolved issues relating to the status of these organisations, in particular those operating within prisons. In most cases however, prison staff significantly influence the operation of the business in an operational capacity and as board members. One of the key defining characteristics of social enterprises is that they are independent businesses, able to set their own goals and operate in pursuit of their own agendas. To what extent this is happening within these ‘special purpose vehicles’ is a subject we explore in this report. Our findings in this area are discussed in detail in section 3.2

#### **1.4. Social enterprise and the public sector context**

Since 2002, when the Government launched its first social enterprise strategy, many areas of the public sector have engaged with the social enterprise sector. In part this came about through social enterprises identifying markets within the public sector, or identifying gaps in service provision that could be delivered through social enterprise solutions. In part it was the result of national and local Government being driven to improve public service delivery through a mixed economy of service providers.

Extensive work has been undertaken within Government to explore how best to develop these markets and increase competition to deliver public services. In 2006, the Department for Communities and Local Government (CLG) commissioned PricewaterhouseCoopers to investigate what conditions were needed to create genuine diversity of provision, with the following conclusions:

There are five main drivers for effective competition, which all need to be in place for the goal of better outcomes to be achieved. The absence of any one of the four drivers could inhibit the achievement of desired outcomes. These drivers are:

1. Strategic market management: Most supply markets in local government can be positively influenced by policy. But it requires a strategic perspective to be effective, which in turn suggests local and central government policy-makers need to work together to actively manage markets.
2. Effective commissioning and procurement arrangements: Rules-based contracting, elaborate processes and the consequent high bid costs are unlikely to positively affect outcomes.
3. Low entry and exit barriers: Productivity improvements depend on the cycle of entry and exit and whilst some barriers will be necessary, local authorities should consciously assess where barriers are truly needed for the furtherance of priority objectives.
4. Competitive neutrality: There needs to be a level playing field for all types of provider, including across the private, in-house and third sectors.
5. Cultural and political issues: These are often most significant. Within a market all the conditions set out above may be present but cultural and political factors could impact and influence what happens in practice.

(Developing the local government services market to support a long-term strategy for local government. PricewaterhouseCoopers, 2006)

At the same time, within the social enterprise sector, work was undertaken to identify barriers that prevented social enterprises from taking on public sector contracting and then explore how these could be overcome. In particular the sector sought to address the role of commissioning and procurement, including a perceived over-reliance on the full panoply of European Union contracting law by many public sector agencies. Recommendations published in 2007 in 'Social Enterprise and the Public Sector - A practical guide to law and policy' by Social Enterprise East Midlands offered a range of suggested changes:

- Developing a common language in commissioning and procurement for terms such as "public value", "social requirements" and "community benefits"
- Bridging a number of gaps between policy and regulation
- Avoiding over-dependence on competition as the primary driver for demonstrating best value in procurement
- Avoiding excessive use of the full EU tender process when this is not always required and alternative approaches would improve the achievement of the required outcomes, and stimulate local supply markets
- Commissioning outcomes rather than outputs
- Establishing a clear legal and policy framework that enables the procurement and support for innovation
- Developing a culture of procurement that is not overly risk-averse.

Other parts of the public sector, in particular the NHS, have also developed a strategic approach to working with social enterprises. This has particularly focused on the potential for externalisation of the provider arms of Primary Care Trusts (PCTs) and incorporation of them as freestanding social enterprises or community foundation trusts.

#### **Case study - Focusing on outcomes**

Turning Point is a large national social enterprise organisation employing over 2000 staff and with an anticipated turnover of £74 million in 2009. The organisation provides services for people with complex needs, including those affected by drug and alcohol misuse, mental health problems and those with a learning disability. Turning point has over 230 projects in place across the UK. All of their revenue comes from trading, with around 15% of this arising from contracts with prisons and probation services.

Turning Point can show people outcomes and case studies of individuals they have worked with successfully. They do not believe that commissioning agencies have been particularly interested in their business model, rather in the outcomes and the integrated service that Turning Point can provide. They also believe that their professional approach to risk management and contractual compliance differentiate them favourably from other organisations.

The organisation employs professional bid writers. This is costly, but seen as necessary as they are totally dependent on contracted income to provide services. Consequently, they have a skill set dedicated to securing contracts. They also ensure that reports are delivered in the format required by procurement officers and that there is a clear focus on the outcomes required.

In both local government and the NHS, identified barriers to the transfer of services from in-house to independent provision include: culture change, level of entrepreneurial skills development, TUPE regulations and the protection of the terms and conditions of staff transferred from a public sector employer to an independent organisation.

In summary, the research, findings and recommendations to prisons and probation services, as outlined in this report, have been informed by learning that has taken place within other areas of the public sector.

It should be noted that the potential for social enterprises taking on contracts for running whole prisons or probation services was outside the scope of this survey.

## 1.5. NOMS Policy Framework

This section reviews the present NOMS policy framework influencing service development, external relationships and social enterprise engagement with NOMS.

### 1.5.1. NOMS overview

NOMS has been structured to join up the Prison and Probation Services, to enable offender management to be delivered more easily and to strengthen and streamline commissioning to improve service efficiency and effectiveness. It is responsible for the commissioning and delivery of adult offender management services for England and Wales within the strategic policy framework set by Government and will increasingly devolve responsibilities to the regional and local levels.

NOMS aims to protect the public and reduce re-offending by working with offenders to change their behaviour and address the issues that may lead them to re-offend.

NOMS manages offenders through seven main pathways to reducing re-offending:

- Accommodation
- Education, training and employment
- Health
- Drugs and alcohol
- Finance, benefit and debt
- Children and families
- Attitudes, thinking and behaviour

In its work NOMS aims to:

- Establish cross-agency effective partnerships at national, regional and local level
- Establish alliances with the corporate, civic, voluntary and faith sectors
- Prioritise information sharing and joint ownership of outcomes
- Develop innovative provision at local level alongside nationally sponsored initiatives.

### **Case study - Supporting substance misusers**

The Bridge Programme is a small organisation local to Northants. It is a limited company with social purpose (re-investment of profits for the benefit of substance misusers) written into its constitution. There is a small staff of six, two of whom are ex-offenders.

The Bridge was started by the Drug Interventions Programme (DIP), which is the strand of the Drugs and Alcohol Action Team (DAAT) which targets Class A adult drug users to get them into treatment and out of crime. The Bridge Programme is contracted to take 800 referrals from DAAT and sees itself as part of the criminal justice system. The Programme can be seen as an example of the externalisation of a public service to social enterprise. The Bridge Programme now focuses on a similar target group and receives referrals from DIP and DAAT-funded agencies, Probation, the Police and self-referrals from substance misusers. The Programme provides mentoring from former substance misusers, alongside wider leisure and sport activities for the target group (and activities for other vulnerable people funded separately by the County Council).

While the process of externalisation and providing funds to The Bridge Programme appears to have been relatively simple, the challenge for the externalised organisation has been the issue of data-sharing and data protection. Because the Programme employs ex-offenders and ex-substance misusers, and also works closely with the criminal justice system, they have faced the challenge of overcoming sensitivities and reassuring the Probation Service of their internal monitoring and supervision processes.

The overall capacity of NOMS is stretched and there are funding constraints, particularly in light of demand for increases in service capacity. According to the latest NOMS strategic and business plans (2009), NOMS is expected to deliver ambitious efficiency savings while improving services. The financial settlement requires the agency to find savings of more than £500 million over the CSR period (to 2010-11).

The Criminal Justice Group (CJG) of the Ministry of Justice has estimated that up to 50% of the resources necessary to manage offenders and reduce re-offending lie outside the criminal justice system. This requires development and maintenance of effective partnership working and relationships with a range of public, private and third sector agencies. Influencing Local Area Agreements is an important part of this agenda.

#### **1.5.2. Probation trusts**

The intention is for Probation Trusts to deliver services on behalf of the Justice Secretary, and to increase competition to deliver high quality probation services from a range of providers.

Probation Trust status was introduced through the Offender Management Act 2007, to allow probation services more independence to focus their work on local communities. The process of Probation Boards becoming Probation Trusts is presently in progress.

The standards a Probation Board must demonstrate include: leadership, performance management, local engagement and effective resource use.

According to Probation Associations there is commitment to the Probation Trust model and the changes that are needed. At the same time they are looking for clarifications, including:

- The benefits to be realised through trust status
- What flexibilities will be available
- How trusts will be incentivised to create new organisations by merger with unsuccessful applicants
- Approval for areas to jointly create new trusts across Government regional boundaries.

### **1.5.3. Directors of Offender Management (DOMs)**

There is now a Director of Offender Management (DOM) for each region. Their role is to commission all of the prison and probation services in their region, whether from public, private or third sector providers. The DOMs will have the authority to deliver national policies in ways that meet the needs of their region. In turn, individual prison governors and Probation Trusts will have the authority they need to determine how best to deliver against their contractual requirements.

The DOMs' role is to take a strategic overview for their region. They will commission some services directly on a regional basis, for example specialist services, or services that enable an intervention to be delivered across prisons and probation to support end-to-end offender management.

The local lead provider will commission other services at the area level. The regional commissioner will contract the local lead provider for that purpose. The local lead provider (in most cases a Probation Trust) will thus act as both provider and commissioner. Lead providers will concentrate on delivering the core offender management work, while being able to commission interventions work from local providers, based on their assessment of what is most effective at reducing re-offending for local communities.

The NOMS Strategic and Business Plans 2009-11 identify efficiency and effectiveness improvements arising from: *“Devolving decision-making to enable DOMS to determine the service mix within their region as part of robust SLA and contract negotiation, unless it is demonstrated that it is not efficient to do so.”*

#### 1.5.4. Commissioning and procurement

The introduction of Probation Trusts and DOMs is part of NOMS' changing commissioning system. By 2010 there is expected to be a significant change in the way services are procured from the public, private and third sectors. NOMS recognises the need to make improvements in their ability to jointly commission services and work in partnership with other organisations.

There is also a commitment to develop and implement a programme of Best Value reviews of probation services with the first reviews to be completed by March 2010.

There is not always clarity in NOMS policy documents about the roles of commissioning and procurement. At times, commissioning-related policy documents focus on changes to procurement processes.

Dr John Graham (Academy for Justice Commissioning Executive Group) has identified that:

*“commissioners and providers alike need to have knowledge, skills and understanding that go far beyond the general mechanics of procurement and contracting. An in-depth understanding of the climate and environment in which services are to be provided is a paramount need. As is an appreciation of the issues and factors that can be critical to both success and failure.”*

#### 1.5.5. The role of competition

Key NOMS documents identify an increasing role for competition for services:

*“The delivery of prison and probation services is a key example of where we can use competition to deliver more efficient and effective offender services. Competition in prisons has been used to deliver multiple objectives: increases in capacity, value-for-money, service/performance improvement, productivity and innovation.*

*DOMs will have a significant role to play in implementing the capacity and competition programmes, acting as regional commissioner within their areas.*

*For the benefits of competition to be realised, a range of providers needs to be developed and maintained. Potential providers will only participate in markets where there is a realistic chance that they can successfully bid for and win work. Unfair practices or sectoral bias, whether real or perceived, will restrict confidence and participation from public, private and third sectors.”*

(Capacity and competition - Policy for Prisons and Probation, MoJ, 2009)

Increased participation by a wider range of providers is the planned outcome of the commissioning changes. Actions to reduce barriers to entry and encourage new providers were clearly identified in 2006 in the NOMS report 'Improving Prison and Probation Services: Public Value Partnerships':

*"We want to ensure that small and specialist providers are able to demonstrate their capability, but in a way that avoids unnecessary cost and bureaucracy by:*

*Minimising the overall cost and complexity of tendering, using fit for purpose pre-qualification regimes that are proportionate to the likely contract value, term and risk;*

*Replacing annual funding regimes with multi-year contract terms to help develop and maintain longer term capacity;*

*Introducing a new provider framework contract which will enable commissioners to procure services more easily and help providers sub-contract more efficiently;*

*Streamlining monitoring, regulatory and reporting requirements;*

*Contract terms which recognise the principle of full cost recovery, ensuring that publicly funded services are not subsidised by volunteers or other funding;*

*An assurance and once only accreditation process, appropriate to the category and value of the service to be delivered; and*

*Information about opportunities."*

#### **1.5.6. NOMS and the wider third sector**

The most recent document relating to NOMS and the third sector (including social enterprises) is "Working with the third sector to reduce re-offending - Securing effective partnerships 2008-2011", from the Ministry of Justice.

It identifies the third sector as having a critical role to play as:

*"advocates of service users and communities, as partners in strategy and service development, and as service providers. Government values their role as enablers of effective community engagement, volunteering and mentoring."*

There is recognition of the sector having a role in supporting the effective management of offenders, helping in the delivery of both the Government Public Service Agreements and the Ministry of Justice's Departmental Strategic Objectives.

Key commitments made include:

- Reviewing and refocusing work and resources on achieving agreed priorities and the outcomes needed
- Selecting the best providers through competition and creating a ‘fairer playing field’, actively reducing barriers to diverse third sector involvement
- Strengthening joint commissioning and the involvement of all sectors in designing as well as delivering services
- Using grant funding alongside commissioning, where this better delivers outcomes
- Providing clarity on commissioning opportunities and undertaking Best Value reviews of probation services
- Working in partnership to strengthen the evidence base and to agree and demonstrate outcomes
- Strengthening user engagement in service design and review.

### 1.5.7. NOMS and social enterprise

There is at present no specific NOMS social enterprise strategy, there are relatively few references to the Government’s social enterprise strategy and action plan, and no obvious references to the Department of Health social enterprise actions in NOMS policy documents.

The main document identifying social enterprise as a specific form of potential provider is the Ministry of Justice Third Sector Strategy 2008-2011. It has social enterprises included in the third sector definition. Interestingly, it separates them from co-operatives, generally considered part of the social enterprise sector.

The document identifies social enterprises as part of the strategy built around four drivers:

- Enabling voice and campaigning
- Strengthening communities
- Transforming public services
- Encouraging social enterprise.

*“The department wants to see social enterprises increasingly able to deliver our services and that we play our part in creating the conditions for their development. Some of the markets in which we operate are not meeting their full potential in achieving improved services, and we recognise that supporting the right social enterprises builds-in greater chances for longer term sustainability.*

*Success in this area is a little more problematic to assess. This is an area where we want to work very closely with the Office of the Third Sector and third sector partners, understanding that the type of organisational support that might be needed to develop social enterprises goes beyond our current skill and experience base. To be*

*successful might mean that our more specific business related discussions need to address:*

- shaping markets to make them accessible to social enterprises;*
- consulting with the social enterprise ambassadors, as included in the social enterprise action plan;*
- co-operation/connections between social enterprises and charitable organisations; and*
- raising commissioner awareness and developing commissioner understanding of contracting with social enterprises and any particular risk-sharing issues that commissioners need to consider when contracting with social enterprises.”*

There is already a range of examples of social enterprises delivering services in England covering all the seven reducing re-offending pathways. To increase participation on NOMS services, the sector needs to clearly understand and develop new approaches in line with the changing commissioning and procurement mechanisms of NOMS.

Increased social enterprise participation would be supported by work to progress issues identified in the Third Sector Consultation reported in the MoJ and NOMS joint publication ‘Working with the third sector to reduce re-offending - Securing effective partnerships 2008-2011’:

- Clarity on the potential scale and scope of future opportunities
- Effective collaboration to understand needs and what works, to design and deliver services in partnership
- Dialogue across the range of funders, commissioners and providers on what works
- To value ‘distance travelled’ in relation to offender rehabilitation
- To address complexity in tracking and demonstrating outcomes
- To streamline performance management/ requirements
- Clearer information and communication on criminal justice and NOMS policies, priorities and new structures of decision making, governance, funding and commissioning
- Opportunity to mainstream effective schemes
- Joined-up and joint commissioning across the many funding streams that support work with offenders and their families, strengthening holistic services and approaches
- More consistent procurement and contracting
- Mechanisms for sharing what works and good practice in relation to partnership working, funding, commissioning, joint commissioning and procurement [these relate to recommendations]
- Policies and practice to enable the sector to fully participate in IT systems that are used to manage offenders.

The implementation of these commitments will be a major step in improving the relationship between NOMS and the social enterprise sector and will

enable development of more innovative and sustainable services to deliver NOMS priorities.

#### **Case study - Working with vulnerable people**

Pentreath Ltd. works in the Cornwall area to support people recovering from mental health issues and help them into training and employment. Their core contract is with the local PCT. They provide development support and also broker into formal vocational training.

They are not currently working with a prison or probation service, but are looking to do so in the future. They would like to extend their existing approach to support ex-offenders. They are currently in talks with the local probation service and youth offending team to develop a programme. Working with this new group will require one to one sessions and supported placements. They are seeking charitable trust funding to carry out this work. Their aim is to break the cycle of re-offending, helping ex-offenders to find new interests and make new friends.

Carrying out work with vulnerable people, Pentreath has had to meet the challenges of working alongside clinicians, holding confidential data and disclosure. Their current data systems satisfy the NHS and they are aware that high levels of security and professional approach is necessary to allay any concerns when working alongside healthcare professionals and other public service workers. They anticipate further discussions on these issues if they move to work with probation and youth offending services.

#### **1.5.8. Conclusions - policy**

NOMS is relatively new to recognising the social enterprise sector as a potential partner and provider of services. This position is changing, reflected in work with the Office of the Third Sector (including the commissioning of this research project) and appointment of the NOMS Social Enterprise Champion.

The implementation of the Best Value reviews is likely to be the most important policy to improve awareness and understanding between NOMS and the social enterprise sector at regional and local level.

Owing to the importance of Best Value, it is discussed in detail in the next section.

#### **1.6. Best Value**

This section reviews the proposed introduction of a Best Value review framework into the Probation Service, and considers the implications for social enterprise. At the time of writing (September 2009) no guidance has

been issued that describes this framework. It was a specific requirement of this study that it should take into account the Best Value draft proposals as well as sharing the experiences of social enterprises contracting within other Best Value frameworks.

Whilst elements of the Prison Service are already open to competition, and individual procurements must achieve best value, there do not appear to be specific proposals to introduce a formal Best Value review process for this part of NOMS.

### **1.6.1. The purpose of Best Value**

The consultation document “Best Value in Probation” 2008 lays out the Ministry of Justices’ commitment to achieving best value from its investment in the Probation Service. This is underpinned by a shift from target-based outsourcing to a process aimed at achieving continuous improvement; with services delivered by a provider who is best able to demonstrate that they achieve best value, irrespective of which sector they come from. The aim of the evolving framework is to drive up the quality and value for money of the services provided in probation areas.

The consultation document describes a Best Value framework broadly based on that used in local government, but adapted to suit the specific needs of the Probation Service.

A number of principles underpinned the approach to achieving Best Value in local government:

- Benchmarking performance and costs to establish value for money
- Evidence-based assessment of performance
- A rigorous challenge to approaches to service delivery
- Engagement with customers, providers and the community of interest
- A formal “make or buy” decision - which may result in changing the delivery vehicle for services - a decision based on what works not who does it.
- Transparency - decisions being made on evidence, and open to scrutiny
- An action plan for service improvement or procurement including, when appropriate, open competition

This process can be summarised as using the 4 Cs of ‘Consultation, Challenge, Compare and Compete’, to achieve the three Es, of ‘Economy, Efficiency and Effectiveness’.

This commitment and purpose is confirmed in ‘Capacity and Competition - Policy for Prisons and Probation’ April 2009:

*“...the Best Value framework will enable probation areas to demonstrate, in a transparent way, the value for money of their services, and to drive improvements in the economy, efficiency and effectiveness of their service delivery”*

### **1.6.2. The proposed process**

The consultation document describes a process in four stages:

1. A national work programme - identifying the specific services to be considered under the Best Value process.
2. Regional co-ordination to facilitate benchmarking and consider competition
3. A review process at both regional and delivery levels, based on:
  - Performance data collection and consultation with stakeholders used to compare and challenge between local areas
  - Benchmarking including consideration of the benefits from competition
  - A performance improvement plan prepared at probation area level, describing proposed improvements to local services
4. An evaluation by DOMs of proposals contained in local improvement plans, in dialogue and partnership with the probation areas, and using a standard set of evaluation criteria: criteria ensuring that plans are robust, likely to deliver continuous improvement and that all possible options including competition have been explored.

*“Equality and diversity would be embedded throughout the framework. Best Value will be neutral about competing services. If and when services are competed, workforce matters would need to be considered at all stages.”*

### **1.6.3. The possible process**

At the time of the preparation of this report, no public guidance has been issued on the implementation of a Best Value review process; a number of issues may have impacted on the development of the final proposals, including:

- Concerns that the local government review process was over prescriptive and became too time consuming and process-focused

- Proposals to establish local probation trusts as delivery vehicles and to appoint regional DOMs to take on the main commissioning role, and be the driving force for service improvement
- Difficulties with co-ordinating the review process of the same services in a variety of trusts and regions.
- Problems with accurate benchmarking

Without guidance it is impossible to be clear about how the process will work in practice. However, three of the elements at national level that will underpin effective analysis and service improvement are well advanced:

#### 1. National Service Specifications

The department plans to prepare specifications for each of the key services. Described as output specifications these will however be focused on the primary purpose of each service, and are likely to include aspirations for outcomes. It is anticipated that they will be written to enable and encourage existing and potential service providers to offer innovation and variation in delivery methods.

This approach implies a single national specification for each of the services, although the consultation document indicates that some local variation may be possible; this may be clarified in future guidance. Preparation of the first two specifications is well advanced; these are Community Payback and Victim Contact.

#### 2. Performance indicators

Along with the service specifications the Ministry plans to develop a set of national performance measures to contribute to benchmarking the services. These are also well advanced, and will focus on the quality and volume of the specified services.

#### 3. Costing

A new unit costing system is being introduced that will provide a framework for establishing accurate local costs for specific services, and allow rigorous comparisons between services or output achievements in different localities or by different providers. It is possible that this framework will be introduced in the autumn, with sufficient data collected for initial comparisons to take place late spring 2010. The cost system will be audited against budgets and other data to ensure accuracy.

### 1.6.4. How Best Value reviews may work in practice

The implementation of Best Value and the evidence-based review of services will be acted out through the relationship between the Ministry, the DOMs, and the emerging trusts as the local service providers.

- The Ministry: establishing guidance; holding the ring on benchmarking and the performance data; and setting timetables.

- The regional structures: driving improvement in their regions; challenging provider performance; setting local service review priorities; and when appropriate requiring competitive process or changing the approach to provision.
- The emerging trusts: improving their own in-house services or procurements in advance of regional or national priorities; developing local delivery partnerships; challenging organisations from which they buy services

It is not clear how prescriptive the guidance on the local review process will be. In local government, specific advice was provided on the process. In this case, it may be that a more light-touch approach is adopted, with flexibility as to how individual reviews are carried out within the national frame work of specifications, unit costs and performance indicators, with a requirement that regions and local areas, trusts or providers evidence its implementation.

The Capacity and Competition Policy indicated that a national timetable for service reviews would be established. Even if this is not the approach adopted, whilst the financial and performance arrangements may apply early to all services, it is likely that the preparation of the service specifications will determine the timetable for attention to specific services. It could take four to five years to complete all of the specifications.

If there is no prescribed programme of service reviews, then it may fall to DOMs to identify which services need a rigorous review, which might benefit from an open competitive process to select a provider or change the approach to service delivery, and where a light touch is more appropriate. With the data emerging from the national framework, they will be in a position to identify underperforming local providers or ineffective services, and focus review resources onto priority areas, where intervention can achieve most improvement.

Equally, as purchasers in their own right, and equipped with the same data, the emerging trusts may well choose to review the services they purchase or provide, to make innovations or improvements irrespective of the national timetable and in advance of regional priorities.

The Capacity and Competition Policy indicates that at least 25% of the first two services for which specifications have been prepared will be tested in the open market, and this is currently still the ministerial position. Without explicit guidance it is not clear how this aspiration will be achieved in practice. For example, is this a percentage of the national provision, of provision in each region or of services provided by each trust? It is possible that 25% of the worst-performing trusts may be concentrated in one region, or that within a region one trust may account for the majority of the

weakest provision of a specific service. To some extent this aspiration is contradictory to the approach of allowing DOMs to determine through the review process which local services would most benefit from competition. This issue is still in development and a pragmatic solution may emerge in the guidance.

Once the framework and Best Value approach is embedded in both the DOMs and trusts, then the principles underpinning it may well become part of the normal management process of service commissioning, performance management and delivery.

#### **1.6.5. Implications for social enterprises**

The introduction of a formal review process will create significant opportunities for social enterprise involvement in the delivery of services achieving NOMS outcomes. These are:

- The creation of a mixed market for provision in which social enterprises can play a significant role
- Opportunities for social enterprises to tender for the delivery of probation or prison services where these are market tested or subject to other formal procurement processes
- Opportunities to contribute to consultations on service development where these form part of a formal review process,
- The shift to outcome specifications and the formal consideration of wider outcomes and possible community benefits in the review process.
- The potential to create new social enterprises by the externalisation of existing services

The proposed timetable for the development of specifications creates a major opportunity for the sector to develop an effective response to individual reviews.

To take these opportunities social enterprises must:

- Build evidence of the achievements of their own service outputs and outcomes, ideally with external accreditation
- Be sensitive to the structural changes taking place in their areas and build good positive working relationships with the appropriate DOMs and the emerging trusts
- Develop the capacity to transfer good practice, establish themselves in other localities and grow quickly in response to tender opportunities
- Monitor the progress of the review programme, collect unit cost data as it become available, and respond to the publication of the specifications

- Be ready and willing to take part in specific reviews, contributing to consultations or soft market testing, and making available their own performance data, as an exemplar.

#### **1.6.6. Measuring social impact**

Both the introduction of Best Value to the Probation Service and more general social enterprise claims of added value through the services they deliver necessitate gaining greater knowledge about the impact social enterprises can offer commissioning bodies. We discuss the role of evaluating services by prisons and probation services elsewhere in this report. Within the social enterprise sector there is an increasing awareness of social impact measurement tools that will help individual social enterprises to prove to contractors what the real added value is that they can offer.

Two key methods of social impact measurement have been developed; Social Accounting and Social Return on Investment. Social Accounting takes the perspective that social enterprises measure themselves against a double or triple bottom line. Whereas most businesses only account for and audit their financial bottom line, social enterprises also seek to measure against social and environmental targets and Social Accounting is a method of doing this - as with financial audits, they are required to have their progress verified by an external auditor. Social Return on Investment (SROI) is a means of measuring the overall saving or return generated by the money spent on delivering services. In some cases this is monetised to show a ratio of savings against investment. There are a number of other quality standards and evaluation tools available to social enterprises (some of them are used by traditional businesses).

These tools will be increasingly important for social enterprises to demonstrate added value within this policy agenda. However, it should be noted that this kind of measurement can be an expensive process. A full SROI assessment can cost in the region of £6 - 10,000. NOMS may wish to consider developing long-term partnerships with social enterprise providers to address this issue and to ensure that social impact measurement requirements are proportionate to the size of the contract.

It is clear from some interviews with the Probation Service that the issues relating to Best Value are already being considered in the context of relationships with social enterprises (see section 2.1.5).

## **Part 2. Research findings**

### **2.1. Prison and probation services interviews**

This section of the report sets out the key research findings generated by the programme of interviews with both the Probation, and the Prison Service. Telephone conversations followed a semi-structured interview schedule, to ensure continuity in the themes of the data captured.

This section draws upon a wealth of mainly qualitative information to gain a deeper and more articulated understanding of the current social enterprise role in offender management, and perceptions about what the future shape of the relationship might be.

#### **2.1.1. Prison interview responses**

The research identified 130 prisons and 37 probation services operating in England. These numbers were reached using initial data sources, provided by NOMS and further refined during the process of interviewing, in the case of services that had been amalgamated or split more recently.

Interviewers attempted to arrange first interviews with contacts for all of the prisons and probation areas. Where no interview was carried out, this was due to one of the following factors: refusal by the contact or an inability to reach the contact after persistent attempts (due to respondent holidays, leave, out of office activities or missed interview appointments).

A total of 91 first interviews were carried out with prison contacts. In two cases, the interviews covered the activities of more than one prison. Where the contact was responsible for activities in two or three prisons, only one interview was completed, with reference to all of the prisons in their remit. This meant that interviews were carried out covering the activities of 94 prisons. This gives a response rate of 72% for the prisons in England.

The following table gives the response rates split down by English region.

Region	Number of prisons	Number of prison contacts responding	% response
East Midlands	17	6	35.3
Eastern	14	11	78.6
London	9	5	55.6
North East	8	8	100.0
North West	17	15	88.2
South Central	14	10	71.4
South East	11	11	100.0
South West	14	12	85.7
West Midlands	12	8	66.7
Yorkshire and Humber	14	8	57.1
TOTALS	130	94	72.3

Around a third of respondents were Heads of Learning and Skills (HOLS), another third were Heads of Reducing Re-offending (HORR). The remaining third were either contacts with a similar remit to the HORR or HOLs but with a slightly different job title or they were contacts with a remit for voluntary and community sector engagement, or for resettlement and integration into the community. For full information see the table below.

Role of interviewee	Count of respondents	Percentage of all respondents
Head of Learning and Skills (HOLS)	29	31.9
Head of Reducing Re-offending (HORR)	30	33.0
Combined HOLs and HORR role	2	2.2
Voluntary and Community Sector engagement co-ordinator	6	6.6
Head of Voluntary and Community Sector Engagement	1	1.1
Head of Learning and Interventions (HOLI)	4	4.4
Head of Offender Management	8	8.8
Head of Resettlement / Resettlement manager	4	4.4
Head of community integration	1	1.1
Interventions officer	1	1.1
Partnerships manager	1	1.1
Residential governor	1	1.1
Sex offender treatment manager	1	1.1
Head of activities and learning development	1	1.1
Head of Pathways	1	1.1
TOTAL	91	100.0

### 2.1.2. Probation Interview responses

All services in England were interviewed. (NOMS originally forwarded details of 38 Probation Services in England - 37 were interviewed as Durham is in the process of amalgamating with Teesside - they will formally merge on 1<sup>st</sup> April 2010). The high response rate is attributed to the perceived relevance of social enterprise to the Probation Service, in particular the new, more enterprising orientation of the Service as a result of the introduction of Best Value reviews and the transition to Trust status.

A total of 39 respondents were involved in initial interviews. Two interviews involved two respondents. A breakdown by job function is set out below.

Analysis by job function from initial Interviews with the Probation Service	No.	%
Assistant Chief Officer (Head of Interventions)	26	68.4
Chief Officer	1	2.6
Business Development Manager	1	2.6
Assistant Director - Business Development	1	2.6
Director of Business Solutions	1	2.6
Business and Commissioning Manager	1	2.6
Pathway Development Manager	1	2.6
Head of Enterprise	1	2.6
Area Manager- Business Development	1	2.6
Contracts Manager	1	2.6
Assistant Director - Interventions	1	2.6
Manager for Unpaid work	1	2.6
NOMS Social Enterprise Champion	1	2.6
Contract and Procurement Manager	1	2.6
Total	38	100.0

A total of 24 people contributed to the 18 extended interviews that took place with the Probation Service. 6 interviews involved more than one respondent.

A break down of respondents' job functions is set out below.

Analysis by function from extended interviews with the Probation Service	No.	%
Assistant Chief Officer	6	25.0
Manager for Unpaid Work	1	4.2
Chief Officer	1	4.2
Unit Manager-Community Payback	1	4.2
Partnership Officer	1	4.2
NOMS SE Champion	1	4.2
Director of Business Solutions	1	4.2
Business and Commissioning Manager	1	4.2
Employment. Training and Education Manager	1	4.2
Pathway Development Manager	1	4.2

Contract and Procurement Manager	1	4.2
Assistant Director - Interventions	1	4.2
Head of Interventions	1	4.2
Director of Interventions	1	4.2
Partnerships Manager	1	4.2
Resource Development Team member with responsibility for social enterprise	1	4.2
Offender Learning and Skills Manager	1	4.2
Total	24	100.0

Extended interviews were conducted with the 18 Services listed below:

Avon and Somerset  
Cheshire  
Cumbria  
Derbyshire  
Devon and Cornwall  
Durham  
Gloucestershire  
Lancashire  
Leicestershire and Rutland  
London  
Greater Manchester  
Merseyside  
Norfolk  
Thames Valley  
West Mercia  
West Midlands  
South Yorkshire  
West Yorkshire

### 2.1.3. Interview themes and caveats

Not all respondents were able to quantify the overall importance of social enterprises or the third sector to their service. Where involvement could be quantified, it was evident that the third sector was the most important source of external relationships.

In many instances, it is over-simplistic to talk of relationships with outside agencies. The typical pattern for the Probation Service is a shift away from one-to-one relationships towards partnerships with multiple players, joint commissioning rather than direct contracting and increasingly sourcing services provided and paid for by other agencies. Every probation service interviewed claimed to be involved in partnership working with organisations funded by third parties.

The next section describes these key research findings. In particular, the following research themes are addressed:

- What are the key benefits of third sector and social enterprise involvement with the Probation and Prison Services
- Drivers
- Scope and shape
- Scale
- Key differences - prisons and probation
- Key differences - social enterprise and the voluntary and community sector
- Money, Service Level Agreements, contracts and organisational relationships
- Third sector and social enterprise opportunities for the future
- Barriers

Before analysis commences, however, it is important to set out the following caveat(s):

### **Complexity of relationships**

Many respondents struggled to quantify overall involvement with social enterprises and the wider third sector and were unable to provide a comprehensive overview of activity within the third sector. This is because there were organisational links with dozens of third sector organisations via a myriad of differing partnership arrangements, contractual and sub-contractual relationships as well as a multitude of relationships that centred on unpaid referrals. For example, many of the most important relationships with the Probation Service focus on contracts held through third parties such as the Supporting People programme (run by adult social services) and Primary Care Trust or Drug and Alcohol Action Team partnerships. In terms of prisons, all but one was providing services with outside agencies of some kind. These were a mix of voluntary and community organisations, private sector business, social enterprises and others. Although some prisons were able to say how many third sector organisations and social enterprises specifically they were working with, others were unclear, or were working with too many partners in different organisational relationships to be able to say. An average of 11 third sector organisations per prison and two Social Enterprises per prison was noted<sup>1</sup>.

### **Social enterprise?**

Lack of knowledge of social enterprise was a limiting factor for both prison and probation respondents. Many respondents, particularly within the Prison Service, confused social enterprises with the wider third sector - the term third sector in itself confused respondents. Prison staff were more comfortable with the term voluntary and community sector. Probation Service staff typically exhibited much higher levels of awareness and understanding of social enterprise, but they were unaware that some national third sector organisations were classified as social enterprises.

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<sup>1</sup> A mean average of the organisations identified by the researchers as social enterprises

## **Segmentation**

Activity within both Services, but particularly the Prison Service, was highly segmented. Thus many respondents were obviously familiar with activity in their own area of responsibility, but limited in their knowledge of other areas. Those prisons with posts that incorporated a specific remit to work with the voluntary and community sector were generally able to offer productive interviews, but interviews with Heads of Learning and Skills within Prisons were often not able to generate a complete picture of relationships with the third sector in general, even less with social enterprises.

## **(Non) Contractual Relationships**

Much social enterprise and third sector activity takes place on a non-contractual basis, with grant funding from a third party, or organisations using their own reserves to provide services as part of their social purpose. Therefore not all services have necessarily been documented in detail by the Probation or Prison Services. The research did identify a trend towards more formalised working relationships and an increasing trend towards Service Level Agreements, irrespective of whether payment was being made. The frequent lack of a contractual relationship, particularly around Community Payback engagement, can at present act to obscure the importance of social enterprise provision.

The above caveats aside, the research programme generated interesting and exciting insights into the role of the social enterprise sector supporting and range of offender management activities.

### **2.1.4. Key Benefits: working with social enterprises and the third sector**

A striking aspect of the research was the high level of satisfaction that both services felt with the third sector in general and social enterprises specifically as service providers. In particular, the Probation and Prison Services benefited from the following:

- The third sector in general is viewed by the Probation and Prison Services as not being limited by the rules and regulations of statutory bodies. It is therefore viewed as more agile and responsive than statutory agencies and can adapt more readily to policy shifts.
- Third sector provision is either cost-free or cheaper than providing services internally - whilst this was the view of most respondents there were also some who pointed to the hidden costs of working with the third sector in terms of management time.
- Cultural fit: it was acknowledged by respondents that offenders feel more comfortable with the third sector as a service provider, especially black, Asian and minority ethnic groups, women or those with other special needs such as people with disabilities. Some interviewees argued that offenders enjoy working with the third

sector more than statutory or private organisations. The sector is perceived as more caring, with a better appreciation of offender needs.

- The provision of niche specialist expertise that is not available internally
- Third sector or social enterprise providers, particularly those that are local, often have extensive links with other organisations that can be of benefit to offenders. The sector can therefore act as a portal to a range of other support services
- The social enterprise sector's track record for innovation and creativity.
- Bespoke services can be tailored to meet gaps in provision, particularly by local organisations.
- Local social enterprises and the wider third sector are deeply rooted in the local community - offenders have the opportunity to put something back into the local community and regain their self-esteem. Engagement via social enterprises can play a key role in re-integrating offenders into community life.
- Policy and Strategic Fit: The importance of community engagement is highlighted in numerous policy directives. Some respondents felt that social enterprise currently has a high policy profile within NOMS and as a consequence it is easy to find funding and resources at the present time. Indeed, several respondents in both the Prison and Probation Service felt that the political climate favoured social enterprise development.

*“We see better availability of funding and national funding bodies recognising social enterprise alongside the public sector. There has been an expansion of public sector social businesses particularly with NHS/PCT connections.”*

*(Prison Service)*

Essentially Probation Service respondents felt that the third sector in general is culturally and ethically more compatible with their work than other sectors.

*“Previously the Probation Service only cared about the ability to deliver services. Now it is becoming increasingly important that providers share the ethos of the Probation Service in wanting optimum outcomes for probationers.”*

*(Probation Service)*

There were of course disadvantages expressed by some individuals, and these included:

- The potential for taking away jobs from Probation Service staff if services are transferred to external providers

- There appeared to be some resentment of the third sector, in terms of it being poorly managed and extravagant with resources
- Third sector organisations, and in particular the smaller local organisations, can struggle to fit into complex partnerships and meet tender requirements which do not take into account the added value they offer.
- Third sector organisations have been seen as unstable partners because they can be financially vulnerable.
- Third sector organisations are seen as being against the high visibility orange jackets insisted upon by the Ministry of Justice, this is interpreted as cultural sensitivity within their organisations.
- The third sector sometimes struggles to conform to strict Probation Service rules about disclosure and enforcement
- There is a lack of adequate and direct financial resources to properly engage with both private and third sector providers.

### 2.1.5. Drivers

The role and shape of third sector intervention is being driven by both changing policy contexts and financial pressures, resulting in changing remits and changing environments. It is clear from the programme of interviews and the desk research that on top of major budgetary pressures there are structures and commissioning methods in the process of being implemented and changing policy priorities, which will all influence the developing role and shape of social enterprise offender management activities.

Take, for example, the comments of one probation officer, who identified that the current strategic direction of probation services was creating more opportunities for outside agencies able to address the preventative and rehabilitation roles:

*“As emphasis within the Probation Service has moved from ‘advise and befriend’ towards ‘punishment and enforcement’, it is inevitably harder for us to establish a good rapport with some clients. Increasingly we are seen as part of the criminal justice system. People do not engage readily with us.”*

*(Probation Service)*

Furthermore, because relationships with the third sector in general tend not to be time limited (unlike the mandatory time orders dictated by the criminal justice system) the third sector can play a lasting role in supporting people in the community.

Changing budgetary pressures are also important shaping factors. Cost saving was cited as a major motivating factor by both services in seeking out third sector relationships. In extended interviews with probation services,

cost savings were the most commonly cited key benefit of working with social enterprises, mentioned by 56% of respondents. For example, Lancashire Probation, which has in place a strategic objective to meet 50% of its requirement for Community Payback supervision via social enterprises, has started to develop a framework for quantifying the savings it has made.

The Probation Service was more likely to stress other positive factors besides cost saving or securing services for free, when talking about social enterprises and the third sector, such as specialist expertise, local community links, flexibility or the ability to engage with hard to reach groups, particularly BME groups.

Within the Probation Service, growing involvement with social enterprises and the third sector is a trend supported by forthcoming internal Best Value Reviews and central strategic directives. The trend is likely to result in greater outsourcing and further development of a mixed economy, particularly for low to medium risk offenders. In extended interviews with the Probation Service, 39% of respondents made specific reference to Best Value as a key consideration when discussing their relationships with the third sector.

#### **Case study - Working with people with learning disabilities**

Prosperity Recycling is a small, local social enterprise company limited by guarantee. The company produces and sells products made from recycled wood, cardboard and plastic. They work with people with learning disabilities and are contracted by Social Services to provide a work based learning programme to these clients. They also provide future employment opportunities through their recycling and retail activities.

The probation service in Lancashire approached Prosperity Recycling about providing Community Payback placements. A Service Level Agreement governs these placements. The organisation is not currently paid for the supervision of offenders and the respondent was not aware that payments took place for this type of arrangement.

While the organisation has been trading for over six years, the relationship with Probation is relatively new. So far, three offenders have carried out their Community Payback placements with the organisation. They only accept low risk offenders due to their work with vulnerable, disabled adults.

Although two probation service respondents questioned whether external models of service delivery offered better value for money, the majority felt that Best Value reviews were beginning to highlight how the third sector can deliver cheaper and better services.

Within the Prison Service, cost savings were also a particularly important driver behind expanding third sector relationships. The Prison Service gave

researchers the impression that its work with the local third sector had often been on a voluntary basis, and showed concern at the increasing 'commercialisation' of engagement with the third sector.

*“As CVS organisations are forced to operate more as businesses, they come to us, the benefactors, for funding and often hold us to ransom over stoppage of a historically cost minimal service (i.e. just staff time and support) unless we begin to pay for it. The services they offer have always added value but they have never been core business and are not profiled within mainstream budgets.”*

*(Prison Service)*

Within both services there was an increasing trend to seek out provision at no cost to the criminal justice system. Both services felt torn between third sector engagement and the need to preserve staff posts. They also recognised that even if third sector services are funded by a third party, there are still demands on prison resources to enable the activities to take place.

*“It is a very delicate balance on how much we need third sector services. We cannot afford to leave staff short on the wings.”*

*(Prison Service)*

A number of interviewees were of the view that social enterprises could afford to be highly competitive on price as they could draw in revenue from different sources.

It was felt that for 'special purpose vehicles', the ability to draw in funds that would not normally be available to a statutory sector agency was of key importance. In addition, the opportunity to generate additional revenue by selling services to external agencies was mentioned by some respondents as a further advantage, although this ability was not felt to be as important as the opportunity to deliver a high quality bespoke service to clients.

The ability of 'special purpose vehicles' to provide bespoke services that had a precise fit with gaps in available provision, whilst simultaneously generating external income, was cited by some interviewees as how the social enterprise sector has a significant role to play.

#### **2.1.6. Scope and shape: working with social enterprises**

The research encountered several different ways in which the National Offender Management Service is working with social enterprises, each with its own distinct drivers.

62% of probation services are estimated to be working with one or more social enterprises at present, either by linking with established external enterprises, or through the process of creating their own internally

generated model. A further six services (16%) were planning some form of activity in the future. The research team believe that this figure is an under-estimate, as it does not include any of the big national social enterprise providers. For example, no probation respondent identified in an interview that Turning Point and SOVA (both large and very well-established social enterprises working with prisons and probation services) were social enterprises.

53% of prisons are estimated to be working with one or more social enterprise<sup>2</sup>. However, within the Prison Service there was notably more confusion as to what constitutes a social enterprise and how this business model differs from voluntary sector provision.

40% (15) of probation services are working with one or more social enterprises to provide work experience for Community Payback purposes, whilst a further five (14%) probation services are considering developing relationships with social enterprises for this purpose. This was the most commonly encountered form of engagement that the service has with social enterprise and the area where future activity was most likely to be planned.

All probation respondents had some direct contractual arrangements in place with the third sector. Nine (24%) probation services are currently working with social enterprises on a contractual basis. In addition, we identified one that had been given start-up funding in the form of a grant (London) and a relationship in Surrey Probation that centred on the Probation Service funding a post within the social enterprise, The Clink restaurant. In Manchester, for example, the Probation Service has a contractual relationship with 19 organisations, 15 of which belong to the third sector. In the West Midlands, we were told that of 25 Service Level Agreements in place with external agencies, 24 of these were with third sector organisations.

Staff within prisons were less clear on contractual relationships. The comment below is typical.

*“We have a mix of Service Level Agreements and contracts but it is all handled through our Procurement Unit.”*

*(Prison Service)*

When asked about direct contracts, 38% of prison respondents made reference to SLAs but on closer analysis it is clear that not all of these SLAs relate to paid contractual working arrangements. 12% of respondents said they believed all contracting was handled on a regional basis. As far as we can ascertain only 40% of Prisons have direct paid contracts in place with third sector organisations. This may be an over-estimation, as some

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<sup>2</sup> According to respondents - although there is likely to be conflation with the wider third sector

respondents may not have differentiated between contracts held directly and those arranged by the Regional Procurement Unit.

32% (12) of probation services expressed an interest in developing their own 'special purpose vehicles', typically to deliver Education, Training and Employment (ETE) services and Community Payback. Some of these were at the aspirational stage, some had started developing the model; notably in Avon and Somerset where a Community Interest Company has been registered and in Cumbria where the Probation Service has worked closely with CROPT, a faith based third sector network to register a limited company within a charitable framework.

### **2.1.7. Scale: National vs. local**

The research identified a tension between the NOMS policy agenda of stressing more community engagement through social enterprises and the wider third sector and the growing importance of large national contracts, and contracts negotiated at regional or area level. For example, The Offender Management Act 2007 stressed that probation areas will achieve the best outcomes through local commissioning, local delivery of services and competition. Yet as the comment below illustrates, there is a perception that smaller grass-roots organisations are at a disadvantage.

*“For example NOMS has a large 45 million ESF co-financing initiative in place at the moment. This will go to big national players and the local third sector will not get a look in except at the left-overs at the bottom of the pile.”*

*(Probation Service)*

Generally respondents were more favourably inclined towards local organisations, cited as more responsive and flexible, with better local and community links. These community links were particularly important for the Probation Service and Category C and D prisons, which have the strongest focus on resettlement and reducing re-offending.

### Case study - Recycling, training and supporting offenders

Millrace IT is a company limited by share, where all of the shares are owned by the charity InterAct. It is a medium-sized, local social enterprise with 12 members of staff operating from three sites in Essex. The organisation recycles IT equipment, some of which is sold in its two community shops, and provides work experience and training to the long-term unemployed and socially excluded, including offenders.

Millrace IT is due to start working with Essex Probation as a contracted provider of Community Payback in October 2009. The organisation is also part of a third sector consortium bidding to be a subcontractor for the ESF and NOMS co-financed provision around ETE (Education, Training and Employment) services. It was following a NOMS pre-qualifying event that they were approached by Essex Probation and asked to become a provider of Community Payback.

Millrace IT prides itself on providing a highly supportive work environment and an infrastructure for dealing with work issues specific to offenders. This approach has resulted in good employment outcomes for offenders.

In extended interviews 50% of probation respondents thought that the importance of working with local, grass-roots organisations would increase in the future. Indeed, 44% of probation respondents stated that they felt a key benefit of working with social enterprises was their local connections. However, some respondents, particularly in prisons, felt that the trend towards regional, area and national contracts with large players, although delivering economies of scale, is leading to a lack of ownership at local level and a poor understanding of outcomes that are to be delivered. There is also a perception of a widening gap between requirements on the ground and contractors' ability to meet these requirements.

*"We have no control over targets or outcomes. These national organisations are increasingly working to their own agenda and are divorced from our local needs. There is no local ownership of the relationship."*

*(Prison Service)*

However, when prisoners leave prison, they may relocate to anywhere in the country, and would thus benefit from working with an organisation with a national footprint. It was also felt by both services that larger organisations were better placed with regard to complex tendering and bidding processes. In some instances they were also cited as more professional and experienced, particularly in dealing with the security requirements of prisons.

In extended interviews with the Probation Service, 17% of probation respondents made specific reference to small local third sector players being disadvantaged by the tendency to contract via NOMS and DOMs. A further 22% of probation respondents felt that the commissioning framework disadvantaged small third sector players in some way: they were less adept at bid writing, were more likely to struggle with the tendering process and the added value of their local and community links was not considered in formal commissioning frameworks. In extended interviews with the Prison Service, no respondent referred to this particular barrier.

### **2.1.8. Key differences: prisons and probation services**

There are clear differences between the shape, scope, and indeed challenges faced by social enterprises operating in either prison or probation contexts. Perhaps not surprisingly, work within community settings is more prevalent within a probation context. However, involvement with the whole of the third sector within prisons increasingly centres on the resettlement and reducing re-offending functions as prisoners approach release. Thus for the Prison Service, involvement with the third sector tended to increase or decrease according to the security categorisation. Category D Prisons had more links with local third sector organisations than Category A or B Prisons. A key route for engagement is the provision of work experience in the community as prisoners approach release. Probation services are more likely to be working in partnership with other agencies in the community than prisons and the rules covering individuals and organisations working in prisons are more restrictive than in probation services.

### **2.1.9. Key differences: social enterprise and the voluntary and community sector**

Many of the benefits attributed to working with social enterprise were also attributed to the third sector generally. Many respondents, particularly in prisons, were unaware of the differences between working with social enterprise and the voluntary sector. However, some cited distinct benefits.

Social enterprises offer the most rewarding work opportunities and in particular, better training opportunities, than average third sector providers of Community Payback projects. In citing the key benefits of working with social enterprise, 72% of respondents in extended interviews referred to the high quality of the service available. For example, Durham and Teesside Probation is working with Butterick CIC. 283 offenders had passed through the enterprise in the first part of 2009 and almost 20 had completed an NVQ - a rate far higher than normally seen.

The local nature of many social enterprises was seen as a key benefit by 44% of probation respondents in the extended interviews.

Interviewees argued that offenders are more likely to secure permanent employment through social enterprise relationships than through other third sector relationships.

The added value of social enterprises and the input they can make into local communities has given some a high local profile, attracting favourable publicity. Examples given by respondents were:

- South Yorkshire Probation has won an award for innovation from The Howard League for Penal Reform for three social enterprises with which it works on a contractual basis to supply supervision and work opportunities through Community Payback. All share a common theme of recycling.
- The Clink restaurant in High Down Prison has a good media profile, including positive items on BBC Radio 4's The Food Programme and You and Yours programme.

Advantages around finance management were cited. Social enterprises were seen as more business-like and professional than the voluntary and community sector which complements the current trend within the Probation Service to become more commercially orientated and entrepreneurial within the context of the transition to Trust status.

*“The Probation Service and NOMS have very rigid finance rules. Money cannot be carried forward across financial years. Yet we must be able to carry money over to pay staff and running costs. Any commercial or semi-commercial organisation simply cannot function in this way. Semi-commercial activity within a statutory framework is not possible.”*

*(Probation Service)*

Finally, the additional social benefits of working with social enterprises were not widely appreciated. Only a small number of respondents cited a significant appreciation of the impact on the local environment from recycling initiatives or the benefits of cheap furniture for people on low incomes, for example. The most important social benefit was felt to be when a positive improvement in some aspect of the local community could be seen as a result of work involving offenders.

#### **2.1.10. Money, Service Level Agreements, contracts and organisational relationships**

An important research finding generated by our programme of interviews, which is likely to have resonance throughout the remainder of this report relates to the issue of commissioning. There appears to be a lack of clarity as to:

- Who pays for what

- What services are considered for out-sourcing
- How such opportunities will be tendered
- What the precise contractual relationships between purchasers and providers are
- What the precise contractual relationships in a multi-agency partnership that aims to reduce re-offending are

Partnership working means different things to the Prison and Probation Services. Within the Prison Service, partnership working implies working closely together to develop a shared vision and ethos and to share information on objectives and outcomes, but on a one-to-one basis. Within the Prison Service, only 26% of respondents said they were involved in partnerships that involved working with organisations funded by third parties. These relationships most commonly centred on relationships with the Primary Care Trust (PCT) and Learning and Skills Council (LSC). Although there is not sufficient data to identify a clear trend, several respondents told us that they thought these relationships would increase in importance (whereas Probation Services are likely to be working in multi-stakeholder statutory partnerships in the local community such as Local Strategic Partnerships and Crime and Disorder Reduction Partnerships, often leading to joint service commissioning).

Prison respondents were also asked if they had Partnership Boards. Many respondents were unsure but the great majority expressed the view that these did not exist. Only four were mentioned which involved specific aspects of work with either the LSC or PCT - indeed the LSC and PCT were mentioned most frequently as third party funding providers. However, a number of other funding sources were mentioned, often unique to the locality. For example, in Lincoln Prison the Pre-school Learning Alliance and Lincolnshire Action Trust are funded to work in the prison by Children in Need.

#### **Case study - Re-investing profits to provide services**

fact is a large national charity that specialises in working with prisons. It employs around 100 people and has 270 volunteers. It offers a range of activities in different prisons but recently developed one of its services as a social enterprise. fact lunch runs catering services in Visits Halls and Visitors' Centres, selling drinks and refreshments to prisoners and their visitors. The social enterprise was set up when a new director identified that the tea shops and Visitors' Centres they were running were losing money and needed to be put on a business footing.

fact competes for contracts issued by prisons to run a range of services for prisoners, and their families, and within the contract fact lunch aims to make a profit. This profit is re-invested in providing other services within the same prison, such as play areas for children. The service is unlikely to be attractive to a private business as it is not possible to charge to maximise

profits - customers don't have much money, and the service must remain open regardless of how few people are using it.

Prisoners sometimes help to run the service, although paid staff are necessary to ensure that commercial targets are achieved. All of pact's staff have enhanced CRB checks and receive prison security training. Most prison based staff are also key holders.

One of the main difficulties experienced by pact lunch is the lack of commercial awareness in the Prison Service. The general view is that external organisations simply make lots of money and there is no understanding of the risk and cost involved in setting up a new venture within a prison. pact lunch also find that decisions can take a long time to be made within the Prison Service.

For the Probation Service, partnership working means working with multiple agencies to procure services that are only partly, if at all, funded by the Probation Service. All Probation Services identified themselves as working in partnership with external organisations that were funded by third parties.

*“Our budget is declining but the budgets for our partners in Supporting People and the PCT/DAAT are increasing. By contributing to these arrangements we get a disproportionate service. We put a relatively small amount in but get a lot more out.”*

*(Probation Service)*

A key trend cited by the Probation Service is a move away from one-to-one contracts in favour of arranging service delivery via partnerships that draw down funding from external sources (European Social Funds co-financed through the LSC for the ETE pathway) and joint commissioning (Supporting People, PCT/DAAT). In extended interviews with the Probation Service, we were told by 61% of respondents that this trend towards partnership working to draw down funding from external agencies will continue to gain in importance.

The following comment illustrates the complexity of the procurement environment for the Probation Service:

*“Our women's safety workers are funded by the Crime and Disorder Reduction Partnership (CDRP). Here in Essex there are 12 groups and many more sub-groups. Our relationship is not about securing funding but about ensuring that all of the stakeholders understand the contribution of the Probation Service.”*

A number of respondents from the Probation Service reported that more innovation and creativity is needed in finding ways to provide services - one

way is by working in partnerships that influence how other agencies procure services for offenders.

The trend towards securing funding from external agencies is particularly important for the three pathways through which the Probation Service has most contact with the third sector: ETE, Drugs and Alcohol and Accommodation. All of these involve drawing down funds allocated to external agencies. This trend is bolstered by the Crime and Disorder Reduction Partnerships (CDRP) agenda:

*“A key driver towards joint commissioning and pooled budgets is the CDRP [Crime and Disorder Reduction Partnership] agenda that stresses crime as a concern and responsibility of everyone, not just the criminal justice system”.*

*(Probation Service)*

#### **2.1.11. Opportunities for the future as identified by prison and probation staff**

The future looks bright in terms of engagement of the social enterprise sector with the Prison and Probation Services - 47% of prisons said they were interested in developing social enterprise and wider third sector work in the future, whilst 95% of probation services stated this intention. Within both services, the strategic decision to focus on core statutory competencies around enforcement and harm minimisation has created a requirement for external agencies to provide services in many other non-core support areas.

*“It is well-known that prisons are moving towards closer engagement with the third sector. For example, I believe CLINKS are delivering training for third sector bodies around preparing for commissioning as the public sector cuts will reduce prison capacity to provide these additional services.”*

*(Prison Service)*

There is a clear correlation between the level of engagement with the wider third sector and the propensity to be engaged with social enterprise. For example, approximately half of the relationships that both services have in place with external social enterprises evolved naturally out of work with the wider third sector. For the Probation Service, familiarity and satisfaction with this model of service delivery have then inspired interest in creating ‘special purpose vehicles’ as social enterprises. For example, a comment from a probation service working very satisfactorily with a CIC for Community Payback purposes illustrates the interest this has generated in developing an internal model.

*“We are very happy with their work. We would love now to develop our own CIC if only we knew how!”*

*(Probation Service)*

In another example, Devon and Cornwall Probation is working with the Torbay Enterprise Centre. This will deliver a range of ETE services and Community Payback provision as part of a high profile urban regeneration project led by the local authority. The Probation Service originally became a partner because of the opportunities offered for cost-cutting in relation to Community Payback. As the benefits became apparent, the relationship deepened and expanded into a wide range of ETE provision. Now Devon and Cornwall Probation wants to create its own social enterprise.

The attainment of Trust status is seen as giving greater commercial freedom to Probation Boards, including the ability to work with different business models and establish 'special purpose vehicles'.

Such new freedoms were welcomed in interviews with those probation services that expressed an interest in the creation of 'special purpose vehicles' - 42% stated that their interest in social enterprise had been inspired in part, by the transition to Trust status giving greater commercial freedom and flexibility and the ability to try new, innovative ways of working.

Trust status will therefore create a 'more enabling infrastructure' for the development of relationships with the third sector, including social enterprise. The next sub-sections explore where respondents thought this potential growth might be.

#### **2.1.12. Community engagement and re-integration through work and training**

Re-integrating offenders into the community, typically through work experience, is a key element of the work undertaken both by the Probation Service and Category D prisons, according to our findings. This represents a key opportunity for the third sector. Indeed, as section 2.2.2 will highlight (see figures 5a and 5b), it is the economic-based Education, Training and Employment category that provides the most prevalent social enterprise activity currently taking place within the Probation and Prison Services.

*"It can give offenders a chance to become involved in their own communities in a unique way. They can actually see improvements in the local quality of life from their work which wouldn't happen otherwise. The local community can see that improvement and knows who was behind it."*

*(Probation Service)*

*"Reducing offending will be seen much more as a locally owned target shared by local partners."*

*(Probation Service)*

The opportunity for community engagement is less important to the Prison Service as a motivator for seeking out social enterprise relationships. Prisoners are imprisoned away from their home areas. We did not identify any strategic imperatives in place urging greater community links and there are more logistical and security problems in developing and maintaining community links.

Within Category D prisons, half of the respondents stressed the importance of local community engagement when discussing the benefits of third sector working.

Whilst Education, Training and Employment advice and guidance may be contracted from the social enterprise sector, it is important to highlight that the majority of work is funded via national LSC agreements or via Job Centre Plus/ESF funding. Probation does not pay directly but influences commissioning arrangements.

*“This is the most complex pathway in relation to commissioning. Typically our role is one of bringing influence to bear on the LSC and Job Centre Plus.”*

*(Probation Service)*

Within prisons we found that nationally negotiated LSC contracts were the norm with less scope for additional social enterprise provision.

### **2.1.13. Community Payback**

For the Probation Service, Community Payback was seen as the key way in which the service can work with the external social enterprise sector. Five of the six services that said they were considering working with social enterprises in the future were considering it as a means to deliver Community Payback. Typically, respondents who were able to cite a figure reported that between 10% - 50% of Community Payback supervision and work is outsourced, principally to the third sector, although local authorities are also key partners. The highest level of outsourcing that we encountered was in Kent where 56% of supervision is provided by social enterprises and the wider third sector organisations in return for free labour. This amounts to 118,000 hours of supervised work placements with local third sector organisations within the county.

Delivering Community Payback was also a focal point of interest in the creation of ‘special purpose vehicles’.

Community Payback schemes therefore offer a significant opportunity for the Probation Service to work productively with social enterprises and the

third sector. A number of respondents thought that there was a clear trend within Community Payback initiatives, to move towards paid contractual arrangements with large providers. The shift towards a contractual relationship generally takes place if more than five or six offenders at a time are regularly working, on a long-term basis.

#### **Case study - Creating opportunities through Community Payback**

Create is a Community Interest Company, limited by share. It is a regional organisation working in and around Leeds and Doncaster to provide a range of services around employment and accommodation for the socially excluded, including the homeless and offenders. It has been trading for 2 years and has a contract with West Yorkshire Probation to provide Community Payback supervision to low risk offenders. Create can cite examples of individuals completing unpaid work orders earlier than mandated and others moving from Community Payback into employment or volunteering. Three paid members of Create staff were formerly on Community Payback orders.

One difficulty they have faced is that the workforce is not always reliable. They may organise work and expect 10 offenders to show up and find that only two or three arrive. In the future they would like to provide quality accredited training geared towards offender needs, although this is currently limited by the Community Payback stipulation that offenders can spend no more than 20% of their time on training and education.

Create is currently working with The Social Enterprise Support Centre in Leeds around the concept of social franchising and supporting charities who work with the same client group with a package of business support.

Respondents within the Probation Service were highly satisfied with social enterprise provision for Community Payback purposes and typically saw their relationships becoming deeper and more extensive, involving larger numbers of offenders. This would suggest that there will be more contractual opportunities for social enterprises. Working with social enterprises in this way is very straightforward for the Probation Service.

A further five probation services (13%) were identified that were planning on using social enterprises to provide low-cost, high quality Community Payback provision. London Probation in particular has many ideas at the embryonic stage.

However, the ability of social enterprises to deliver the current high profile public Community Payback projects is reduced by the fact that activities such as scrubbing graffiti and clearing waste ground are typically the domain of the local authority. Social enterprise provision frequently takes place at a distance away from public eye - often either workshop- or allotment-based. (This does not reflect some of the underlying principles of

Community Payback - offenders being seen to work within the communities they offended against.)

#### **2.1.14. 'Special purpose vehicles'**

12 probation services expressed an interest in developing their own social enterprises, most commonly to deliver ETE services and Community Payback.

Examples given were:

- Avon and Somerset Probation Service has created a Community Interest Company (CIC) to deliver ETE services to offenders.
- Devon and Cornwall Probation Service is already an accredited academic institution. Exposure to social enterprise through the Torbay Enterprise Trust has resulted in the Service wishing to commercialise this area of activity via a 'special purpose vehicle'.
- Cheshire Probation began offering NVQs for its own staff and then became commercially successful in winning training contracts. It now wishes to develop a social enterprise in order to be able to start bidding for funding to deliver ETE to probationers via LSC, Job Centre Plus and ESF funds.

Issues relating to 'special purpose vehicles' are discussed in depth in section 3.2 of this report.

#### **2.1.15. Other areas for potential social enterprise development**

Several prisons cited gaps in provision around the Drug and Alcohol pathway. We were also told there can be difficulties around funding as it is unclear whether this falls within the remit of the LSC or PCT.

In extended interviews with prisons, this was the area most commonly cited where it was felt that there was scope for social enterprise provision. We were also told that at present the Prison Service relies heavily on Alcoholics Anonymous provision, but the AA approach stresses total abstinence. More provision is wanted around management of alcohol use, rather than total abstinence.

*“Alcohol awareness training is an area of high need but poor provision. This would apply to most prisons although there may be pockets of good provision.”*

*(Prison Service)*

The situation in one probation service was having an effect according to one probation respondent:

*“Only external contracts and services with a strong relationship to risk of harm will be kept. Pathways around working with families - except domestic violence and sex offending - will be axed. Finance and debt support has already gone.”*

*(Probation Service)*

#### **2.1.16. Barriers and routes to social enterprise engagement**

As the previous sub-section highlighted, there are clearly significant opportunities for the social enterprise sector to engage with the Prison and Probation Services. However, converting opportunities into viable commercial relationships is not straightforward. Our research programme identified a number of barriers, which need to be addressed before a clear route to social enterprise engagement can be formulated. This sub-section sets out these barriers.

##### **Information / Quality / Evaluation / Identification**

Lack of knowledge and understanding of the benefits of working with social enterprise was common in both services, but especially the Prison Service where a number of respondents claimed never to have heard the term. We found widespread confusion amongst prison staff as to what constitutes a social enterprise. Within the Probation Service, staff had generally heard the term but did not feel confident in defining a social enterprise.

Of those who had heard the term used, they did not necessarily have any idea what it meant. In particular, the idea of generating a surplus for social purposes was not understood and was seen by some to compromise the ethics of any enterprise. There were fears around loss of community or offender focus when trading began. Trading was seen in some way as unethical and as compromising the social goals of the organisation.

*“I am very clear that we would not want to be involved via Community Payback in any project that created a profit. If a social enterprise we were working with slipped into profit-making it would be a problem for us.”*

*(Probation Service)*

In addition to not understanding the social enterprise model, some respondents were unsure how to identify and evaluate potential third sector partners and consequently preferred to work via Council for Voluntary Service (CVS) type umbrella organisations. Prison staff reported difficulties in identifying local third sector organisations. Some respondents cited the lack of an evidence base as being a reason to avoid social enterprises, particularly in the current economic climate which offers little scope for investing in untested ideas. We were regularly told that work with external service providers is outcome driven. At the same time no evaluations by the Probation Service were identified and evaluation of social enterprise activity that had taken place within Prisons was limited. Some respondents also

added that they would have no idea how to evaluate the impact of social enterprises.

A lack of information and advice on how to develop a social enterprise in a probation or prison service context was also identified. Some respondents had sought advice from mainstream agencies such as Business Link and Development Agencies. One respondent had resorted to Google. All who had been in contact with the social enterprise movement felt they had benefited from it, but we were also told that generalist social enterprise advice was not appropriate for the special needs of a statutory agency. NOMS would have been the preferred route of advice but it was not felt that NOMS had been helpful on the specifics of forming a social enterprise as a 'special purpose vehicle'.

Offenders themselves also need information about social enterprise and the outcomes of their work. One respondent reported there had been initial problems because offenders felt they were working for the personal gain of the person managing the enterprise.

#### **The wider third sector, size and capacity**

A key concern voiced by both prison and probation respondents was the third sector's size and capacity to engage with their respective services. Anxiety was expressed that:

- The third sector, particularly smaller organisations, struggled to grasp the importance of mandatory disclosure and enforcement requirements.
- Third sector organisations, particularly smaller ones, underestimated the challenge of working with offenders. Moreover smaller organisations often lacked the knowledge and infrastructure for dealing with higher risk categories.
- Third sector organisations, especially smaller organisations, can struggle to fit into complex partnership working arrangements
- Third sector organisations are unstable partners, financially vulnerable owing to short-term funding arrangements.
- Some respondents said they would not wish to extend relationships with the third sector because they had no cash and did not wish to raise unrealistic expectations, or have to suddenly end relationships because funding priorities had shifted.
- The third sector could be lacking in commercial wisdom.

*“A lot of third sector organisations think we should pay them anyway regardless of their outcomes. It does not go down well when they realise we are not going to double fund their work. They see our contracts as grant giving.”*

*(Probation Service)*

Indeed, some respondents from both prisons and probation services favoured working with national organisations because of their long experience of working with offenders and understanding of enforcement and disclosure requirements.

There were also difficulties over current tendering procedures. Tender paperwork can be the same if the contract is worth £500,000 or £20,000. This has major resource implications for providers engaging in tendering processes and can present a real barrier to smaller social enterprises and wider third sector organisations. However, some probation services have worked to simplify tender documentation and raise the value at which a full open tender process must be conducted, in order to facilitate openings for smaller local organisations.

Uncertainty was also identified around how social enterprises can fit in with the new commissioning framework that stresses value for money and competitiveness. Social impact is not considered within this formal framework. This was a principal barrier identified, cited by 28% of probation respondents in extended interviews. The current economic and public sector finance climate in which the Probation Service is operating is not seen as compatible with social goals.

*“In a time of decreasing budgets and staff redundancies, it is the direct benefits that matter, not social goals. The world we live in is not so idealistic.”*

**Competition and contestability** were also identified as potential difficulties, as illustrated by the comment below.

*“If there was a strategy for the Probation Service to keep Community Payback as a predominantly internal model because it is a flagship service, then we could in theory find any social enterprise working in Community Payback in competition with ourselves on more favourable terms because they can pull down funds from many sources not available to us as a statutory organisation. I see this as a particular problem if we were to set up an internal social enterprise.”*

### **Public sector capacity and culture**

Respondents identified problems within their own respective services that create barriers to engagement. This is especially the case within prisons.

A number of respondents thought that delivering training and awareness to third sector staff on the special criteria that relate to working inside prisons is time-consuming and not worth the effort for short-term projects. For example, in one prison all workers from external organisations are given the full prison staff induction programme and all must be CRB checked. This type of procedure was seen to be an onerous additional burden for staff.

Such effort is accentuated for prison staff if work is taking place within the prison and the delivering organisation is not a key holder.

*“If people are not key holders we have to escort them. If they are civilian members of staff, they cannot be left alone with prisoners, which has major staff implications, especially at a time of cut-backs. We manage to supervise workers from St Giles Trust and Migrant Helpline when they come in here but I am not sure we could manage much more.” (Prison Service)*

Although all Probation respondents viewed the social enterprise model in a positive light, some suspicion was found amongst Prison staff. One Prison respondent also felt that the social enterprise set up internally within one NOMS organisation was financially unstable and inherently high risk.

In addition, the long lead time in establishing NOMS-led approaches, was cited by some as a barrier. For example, Devon and Cornwall Probation commented that it had taken two and a half years to get the Torbay Enterprise Trust off the ground. The Clink restaurant within High Down prison took four to five years.

Extended interviews with prisons working with social enterprises highlighted the potential for culture clashes.

*“There is a difficulty in getting people from external agencies to be accorded the status they need to properly do their work in the prison. Naming staff as operational and non-operational reinforces this perception.”*

*(Prison Service)*

**A risk averse culture** was also a recurrent theme generated by the interviews, and both services were particularly anxious about the sustainability, financial viability and risk element attached to social enterprise. Risk was highlighted by both services that were working with offender-led social enterprises. An example was given by a respondent who had initiated an offender-led social enterprise within the Probation Service, designed to deliver ETE services. It was reported that some of the respondent’s colleagues saw the enterprise as inherently high-risk and unreliable. Neither were they sure it could satisfy statutory requirements regarding processes and procedures when the organisation was ready to contract. They also foresaw possible legal problems around contractual arrangements because of the offending background of staff.

#### **(Perceived) cost of third sector services**

A small number of respondents cited the cost of third sector services as a barrier to expansion and as a motivating factor in up-skilling internal staff.

*“The third sector is pricing itself out of the market and they want three year contracts which we cannot offer. We have just had quotes for 40k including on-costs to provide a specialist worker for a third sector organisation. We know we can employ a member of staff internally for 25k including. It is more cost-effective to up-skill our own staff.” (Prison Service)*

## **Cultural differences**

The barrier relates to differences in culture between some ethically based enterprises and public sector services.

Two key examples of this culture problem mentioned by respondents related to the wider third sector and the proliferation of faith-based voluntary sector organisations in prisons.

*“These organisations can have their own agenda which can upset vulnerable prisoners. Statutory organisations simply deliver what they are contracted to. Unpaid volunteers can go off on a tangent.”*

Community Payback was also raised as an issue by two probation respondents. They mentioned that the Home Secretary<sup>3</sup> has stated that he wants high visibility in the community and that they had experience of social enterprises that disliked offenders wearing high-visibility clothing as they believed that it stigmatised offenders and that this represented a barrier to establishing working relationships.

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<sup>3</sup> This is the remit of the Ministry of Justice, so it is possible that the respondent is referring to the Minister rather than the Home Secretary

## 2.2. Social enterprise questionnaire

### 2.2.1. Overview

This section of the report sets out the research findings of the electronic questionnaire designed by the Concilium team. Its purpose was to provide a quantitative sample picture of social enterprise activity in the offender management sector.

Before examining the detail of the findings, in summary this section covers:

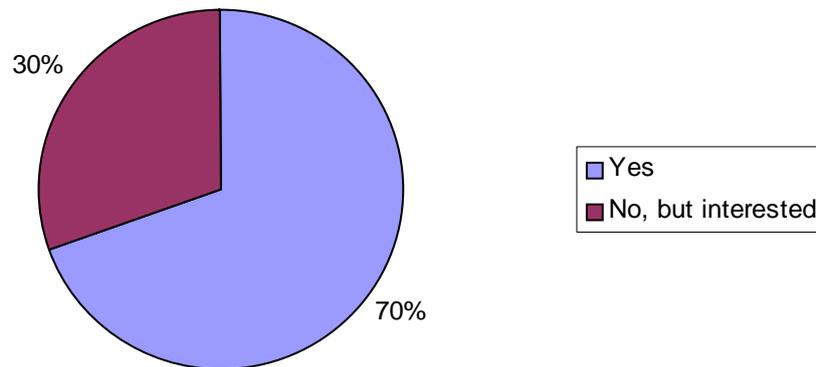
- The survey is based on the responses of 82 organisations
- The sample is skewed towards London, East Midlands, and the South West
- The Company Limited by Guarantee structure was the most common adopted structure by respondents
- In terms of services, economic-based Education, Training and Employment is the most prevalent
- There a wide range of settings and activities for service provision.
- There is a myriad of funding and contractual relationships between social enterprises and the Prison and Probation Services.
- Accessing funding from a third party, rather than the direct commissioning of products and services, is the common practice
- There is interest in developing new services, both by existing providers and those not presently working with NOMS clients
- In terms of barriers to the social enterprise sector working with offender management, 'Not being aware of opportunities', is clearly identified as the most important reason, although issues around organisational capacity are viewed as important.

### 2.2.2. Questionnaire responses

There were 107 responses to the questionnaire before the closing date. Of these, 82 were from self-selecting organisations taking part in the survey. A further 25 responses were cleaned from the data because they were either a) nonsense entries filled with random keystrokes in the text boxes (8), b) blank (13), c) duplicates of existing entries (2), d) from outside of England (1) or e) from a single person responding about the topic, not talking about a particular organisation (1).

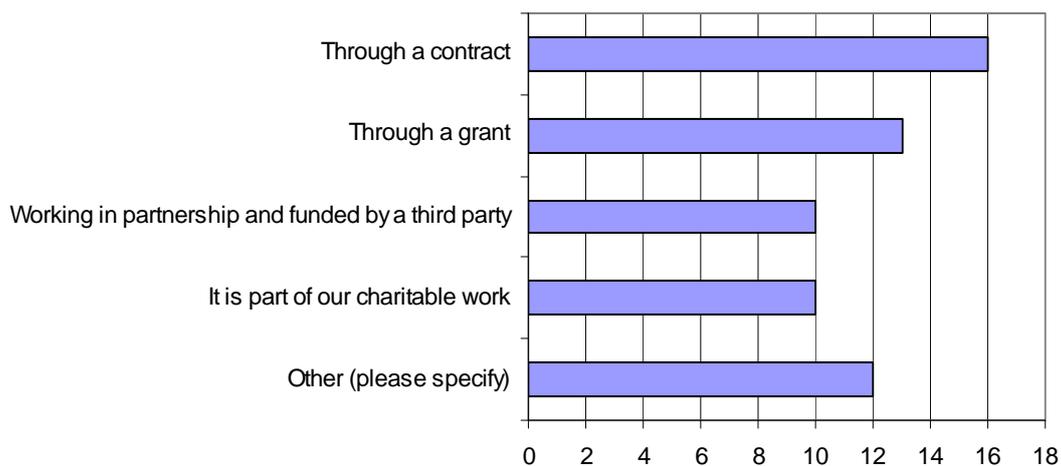
A total of 82 self-selecting social enterprise organisations took part in the survey. As figure 1 shows, of these 82, 57 were currently working with offenders/ex-offenders, whilst the remaining 25 'would be interested in developing work with offenders or ex-offenders'.

**Figure 1** - Responses to the question: Are you currently working with offenders or ex-offenders?



We further identified that 26 organisations were working directly with prisons, and 21 directly with probation services. We identified that 11 organisations worked with both prisons and probation.

**Figure 2** - Responses to question: How do you receive funding to carry out these activities?



The respondents could tick more than one option in response to the question on how they received funding. Over half of them did so.

44% of those directly providing services to prisons and probation had secured a contract to deliver services of value to offenders and ex-offenders. In a number of cases this was in conjunction with other forms of funding.

The other respondents received grants, or bolted on other funding to support such service delivery. The ad hoc nature of the funding is illustrated by some of the written replies captured by the survey.

- *Its part of our social mission but we'd love some support so we can do more and do better*
- *Future Builders Loan*
- *Fixed three year funding from a charitable foundation*

- *We don't/none received*
- *Mainly through OLASS providers or ESF provisions that come and go*
- *We are running a free pilot with a view to developing a qualification and a working model that can be transferred elsewhere*
- *No funding received*
- *We are self-financing and do not receive funding*

Figure 3 - Regions in which the respondents are active

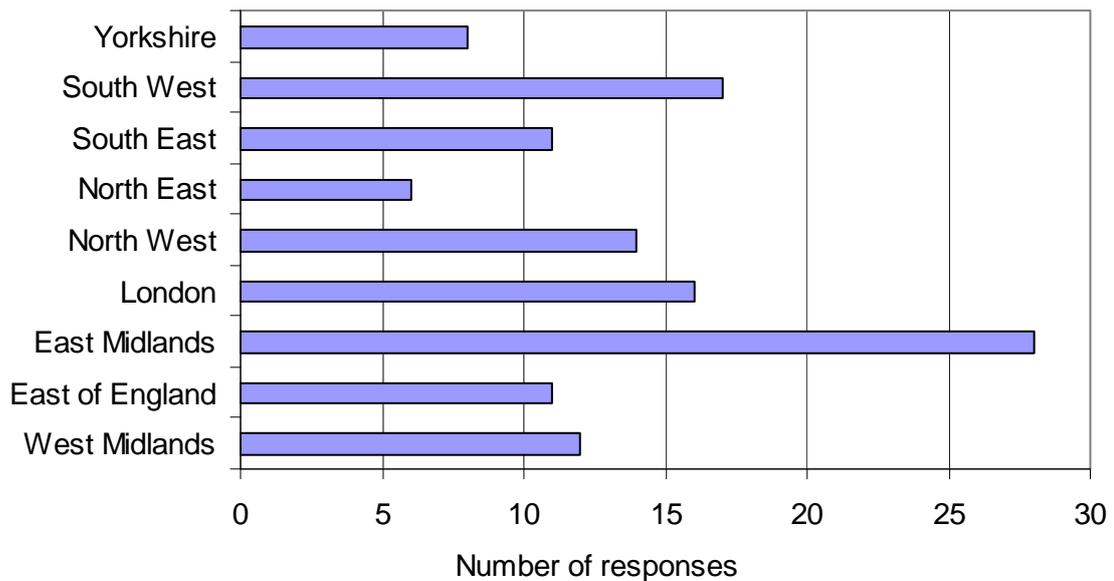
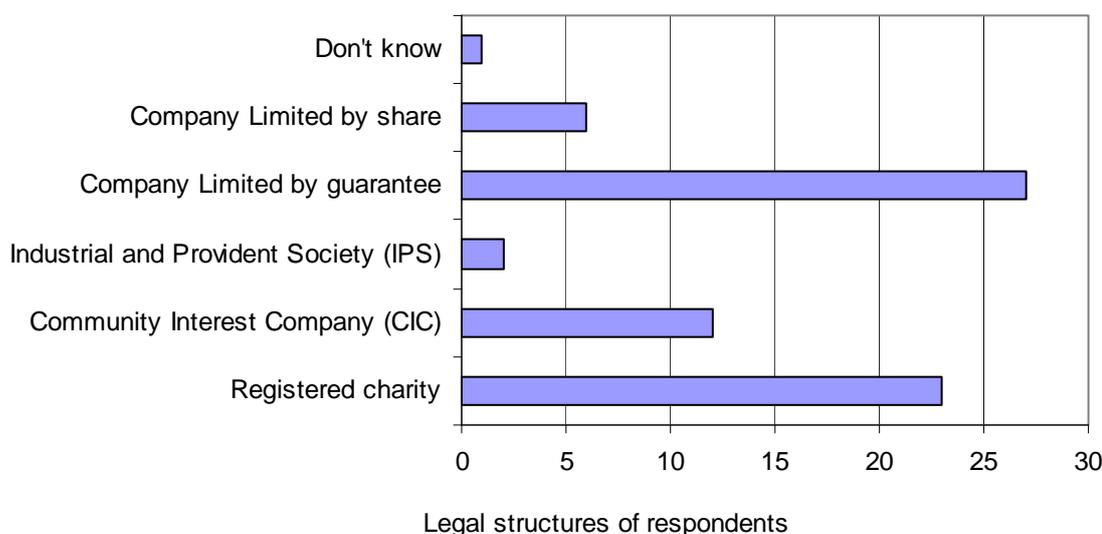


Figure 3 lays out the geographic distribution of the survey respondents. It shows that the majority of organisations that took part in the survey were active either in the South West or the East Midlands. All but three of the respondents answered this question (79). This finding, however, should be treated with caution. Some regional social enterprise networks were possibly more active in promoting the NOMS research project than others, and therefore the data contained within figure 3 might not be providing a genuine reflection of regional variation in social enterprise activity with respect to offenders and ex-offenders.

In order to test whether our findings in figure 3 reflect genuine regional variation in social enterprise activity, we compared our findings with IFF research. The IFF 2005 survey mapped Social Enterprises with the legal forms Company Limited by Guarantee and Industrial and Provident Societies. Comparing our data with more robust data from IFF research, we think that the over-representation of NOMS-related social enterprise activity in the East Midlands is an anomaly.

**Figure 4 - Legal structures of the respondents working with offenders and ex-offenders**



The respondents featured a good spread of adopted legal structures, as demonstrated in Figure 4. Companies Limited by Guarantee (CLG) appear to be the most favoured option. A total of 48 of the 57 respondents currently working with offenders and ex-offenders responded. However, it is not possible to disaggregate the data further to examine whether all the registered charities charted are also counted in the CLG category, or indeed whether the CICs are also counted in the CLG or share company categories.

Figure 4 shows that CLGs remain the structure of choice. Nevertheless, the high proportion of CLG and CIC structures that are adopted by trading organisations demonstrates that the respondents do appear to come from the trading social enterprise rather than the wider 'third sector'. The high level of registered charities may indicate good use of charitable status benefits available for many of the services provided (education, health, children and families etc). It could also indicate social enterprise activity as trading arms of charities. Finally, the relatively high number of Community Interest Companies is testament to the success of this comparatively new company form at colonising the third sector.

Two questions in the survey were designed to examine how organisational activities mapped on to the priority areas for the National Offender Management System, namely:

- Accommodation
- Education, training and employment
- Mental and physical health
- Drugs and alcohol
- Finance, benefits and debt
- Children and families of offenders
- Attitudes, thinking and behaviour

Respondents who were not currently working with offenders or ex-offenders, but were interested in doing so, were asked:

*“These are the priority areas for the National Offender Management System. Are you presently working with your own beneficiaries in any of these service areas? (Tick as many as apply)”*

Respondents who were already working with offenders and ex-offenders were asked:

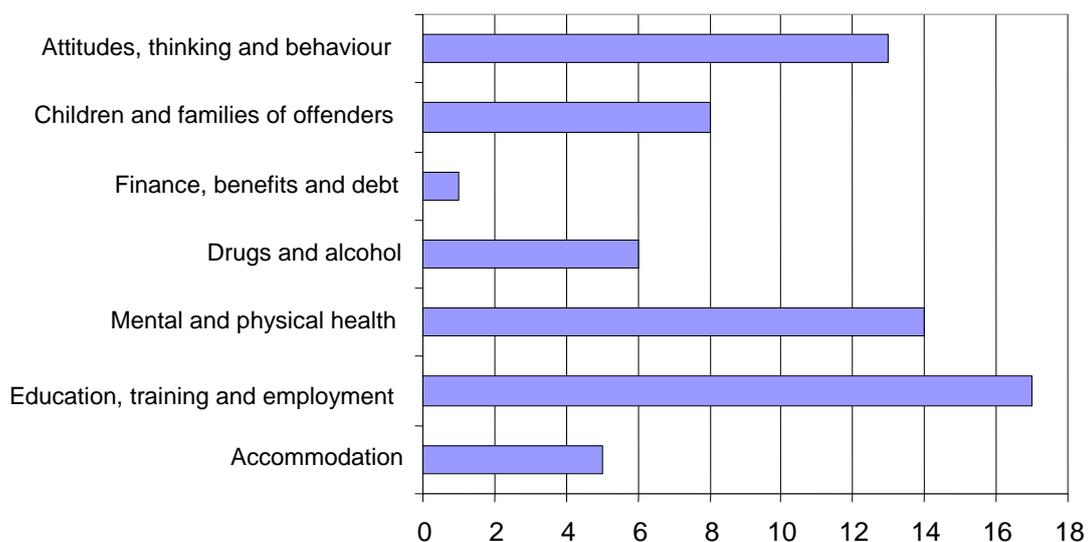
*“Do you provide services which could be described under any of the following headings (tick any and all that apply)”*

The rationale for posing these two questions was to examine whether social enterprises not currently delivering specific services to offenders/ex-offenders, were engaged in activities that had potential to engage with the target offender group.

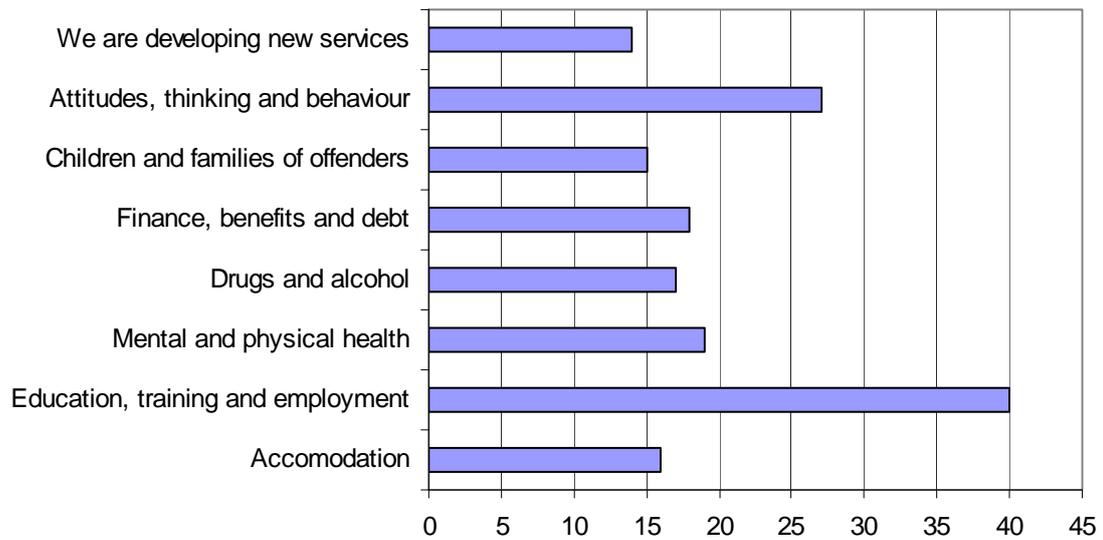
Consideration of figures 5a and 5b, demonstrate that it is the economic-based Education, Training and Employment category that is most prevalent. Furthermore, of the 14 respondents who stated that they were developing new services in Figure 5b, a further three were focused on getting people into work through enterprise development.

However, Health and Social Care services appear to be an area for potential growth with just under 20 respondents working in this sector. Other potential growth areas would appear to be Finance, Benefits and Advice and Drugs and Alcohol.

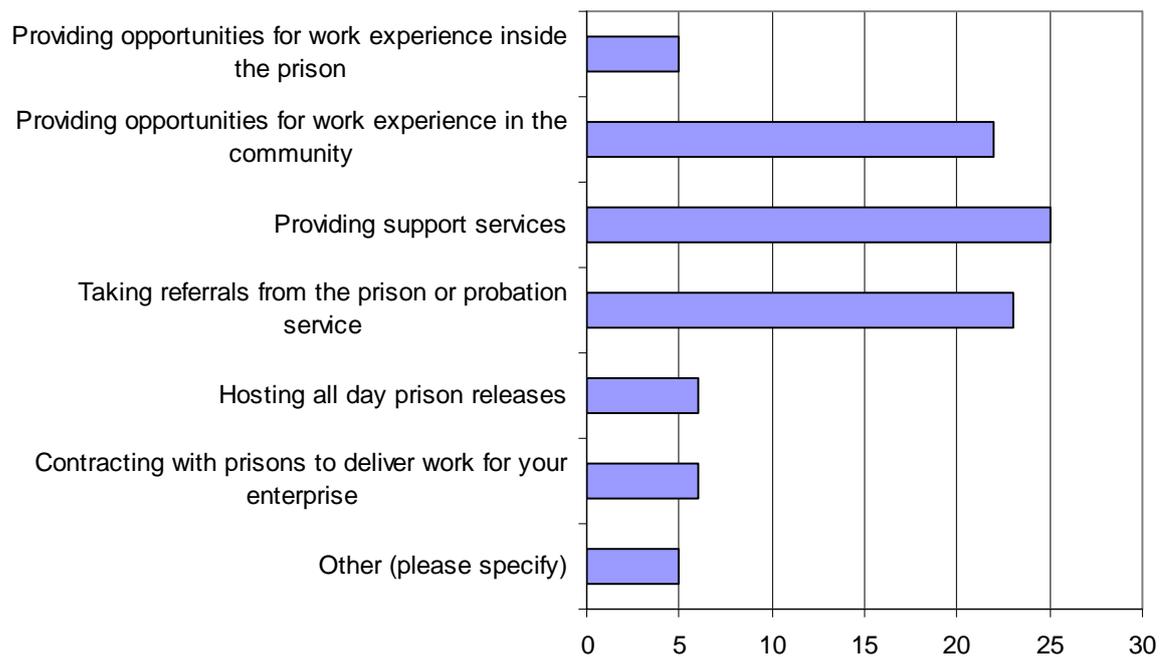
**Figure 5a** - Responding organisations not currently working with offenders / ex-offenders who are working within areas similar to the NOMS priorities



**Figure 5b** - Responding organisations currently working with offenders and ex-offenders in NOMS priority areas



**Figure 6** - Responses from organisations currently working with offenders and ex-offenders to the question - how would you describe your services?



The 'economic function' is also highlighted when respondents were asked to describe their services, although support services also feature highly. For example, in Figure 6, 27 respondents explicitly stated that their activity was focused on 'work', in that they described their services as providing opportunities for work experience in or out of prison.

## Open-ended responses

We asked those currently working with offenders and ex-offenders how many people worked for their organisation. The average number of staff per responding organisation was 31. However, this average was skewed by three large organisations. The vast majority of responding organisations (77%) were small to medium size, employing fewer than 30 full time staff, with over half of those employing fewer than 10 staff (43% of all responding organisations). Only three of the organisations (6%) that responded employed over 100 staff, the largest employing 300

Two organisations (4% of respondents) relied on volunteers, with no paid staff employed by the organisation at all. A further 8 (16% of respondents) used a combination of staff and volunteers to provide their services and the numbers of volunteers varied widely.

### **Organisations currently working with offenders and ex-offenders and working with prisons or probation services**

As might be expected, the organisations already working with offenders and ex-offenders often focussed on these clients as their target group, or on subsections or relations of this target group, for instance women and children involved in street prostitution, offenders recovering from alcohol or drug misuse, youth offenders and the families and partners of offenders.

While many organisations were involved in a particular business activity - such as furniture collection and resale, carpentry, community transport, electronics disassembly, cooking, farming and estate management, they were more likely than the organisations not currently involved with offenders to state explicitly in their activity description the rehabilitation or reintegration aspects of the client being involved in the activity.

Most of these business activities were based in the community (22), with only five organisations stating that they provided work placements within a prison and six stating that they hosted all day prison releases. Another six were contracting with prisons to provide work for their social enterprise.

In general, the stated approaches for this group emphasised how they would help prisoners to reintegrate and rehabilitate. Organisations providing support services alongside the prison and probation services mentioned mentoring, buddy schemes, family and prisoner mediation, training to gain recognised qualifications, support for the rehabilitation of addicts and placements leading to work beyond prison. Another approach which arose more than once was giving development support to ex-offenders to set up their own co-operatives or social enterprises, to provide work opportunities for themselves. In all of these approaches the activities were clearly more aligned, or the organisations were more used to describing their work, in relation to the reducing re-offending pathways.

### **Organisations currently working with offenders and ex-offenders and not directly working with prisons or probation services**

In contrast to the previous and following groups, these organisations were largely issue-based organisations focussing on working with a particular target group.

These organisations rarely stated that they focused on offenders or ex-offenders, but instead dealt with problems that, alongside other members of that target group, some offenders and ex-offenders may experience. The responding organisations worked with: rough sleepers and the homeless, those facing barriers to employment because of ageism, substance misusers, young people at risk from exclusion, those with ADHD, the financially excluded, those with mental health issues, and marginalised or disadvantaged communities.

While some of these organisations organised work experience in wood recycling, horticulture, construction and catering, others specialised in training and guidance for 'vulnerable' people and others provided supported accommodation.

These organisations were largely providing services to offenders and ex-offenders within their remit to help a wider target group.

### **Organisations not currently working with offenders but interested in doing so**

These respondents were asked to give a brief description of their activities. They were also asked if they were thinking of developing further services in the future. The responses to these open-ended questions gave a picture of the widely varied focus of these organisations and the many ways in which social enterprise and offenders or ex-offenders could interact.

The activities differed according to their target group, business category and approach:

- Target group - e.g. young people, people with disabilities, people with mental health issues, people who suffer exclusion from the job market, people in a particular regeneration area, people with drug and alcohol problems
- Business category - e.g. media production, estate management, events management, aquarium rentals, marketing, sustainable food awareness, IT recycling, trampolining.
- Approach - e.g. skills training, attitudinal training and emotional education, directly providing work experience, finding work experience placements in the community, counselling, support, advice, accommodation.

For some organisations, the target group was paramount and every activity that followed was based on helping that particular target group. These organisations typically used multiple approaches, such as combining work

experience, skills training and advice and guidance. Other organisations focused on a particular business category, such as estate management, and were often happy to receive work placement referrals from many different outside agencies and groups for people to learn the skills and gain real life experience of that particular activity.

The organisations took different approaches to supporting their clients. These approaches varied in whether they tackled issues facing the client directly or indirectly, on whether the emphasis was on providing an open-ended opportunity or bringing about a stated or mission-related change.

While these three categories cannot be used to draw definitive dividing lines between different types of responding organisation, they have been useful in understanding the ways in which organisations are thinking of developing in the future. Around two thirds of the organisations stated ways in which they intended to develop further activities.

Those organisations with a greater focus on a particular business activity commonly stated that they were developing another type of related activity. For instance, the organisation already involved in aquarium rentals would like to set up a breeding programme for fish to extend work experience opportunities. The organisation involved in apple farming would like to provide more opportunities for work experience through setting up a juicing plant.

Those led by a focus on a particular target group commonly stated that they would like to develop by extending their current work to the members of that target group who were also offenders or ex-offenders. For instance, the organisation currently providing training to people who manage or support those with mental health issues stated that they would like to extend their work to train prison and probation staff. A health and social care LINK would like to involve offenders and ex-offenders in influencing care service commissioning within and outside of prisons.

Those with a focus on training as an approach were generally intending to develop new training schemes and those who provided opportunities for real life work experience were often setting up new schemes to provide more real life opportunities. An example of this is the organisation which provides craft, building and interior decoration opportunities wanting to provide more opportunities by building accommodation that could be used by the participants after prison or rehabilitation.

Some of the organisations were experiencing changes in circumstances, such as wishing to formalise an existing arrangement, negotiating to provide services in a prison or probation setting, or finding that they were not able to provide placements where they once could due to changing circumstances or legislation surrounding risk.

Less than a fifth of the respondents said that they had experienced barriers to working with offenders, but the open-ended responses they gave to the

question 'Are there any reasons why you are not currently working with offenders or ex-offenders' largely mirrored the comments relating to changes in circumstance. Two said that past arrangements could no longer continue due to changing circumstances, three said that they could not find suitable funding (some from the public purse) and others were in the early ideas or development stage so had not yet had a chance to test their model.

## **2.3. Social enterprise interviews**

### **2.3.1. Sample**

Extended interviews were held with a sample group of social enterprises that are either working with prisons or probation services or that intend doing so. A sample was selected from those social enterprises that had self-selected to complete the on-line questionnaire and from the identified social enterprises that were named in the interviews with prison and probation staff. Criteria for selecting the sample group were agreed in a contract management meeting with SEC and NOMS. It was agreed that the aim was to seek the views of a wide a range of different types of social enterprises: large and small, 'special purpose vehicles' (see section 3.2) and pre-existing, working with prisons and probation services and across as wide a range of pathways as possible.

The interviews were conducted by telephone and followed a semi-structured format that enabled the researchers to follow different lines of questioning depending on the model of social enterprise and the experiences they had.

18 interviews took place and all but one of the respondents was already working with at least one prison or probation service. One organisation was identified as actively planning to work with a local probation service. Six social enterprises were working with one or more prisons and six were working with one or more probation services. Five were working with both prisons and probation services and one was seeking to work with a probation service. Six could be described as 'special purpose vehicles' while the remaining 12 were pre-existing social enterprises set up independently of NOMS.

11 respondents were categorised by the researchers as small organisations, four as medium sized organisations and four as large organisations. However, in traditional business categories all but one would be described as Small and Medium-sized Enterprises (SMEs) with fewer than 250 staff.

One large national social enterprise had 2000 staff and an annual turnover of £74,000,000. Another large organisation had 64 staff and an annual turnover of £1,500,000 and another had 100 paid staff and a turnover of £3,000,000 - although not all of this was social enterprise activity. Medium sized organisations were typically operating with 12 - 20 staff and the smallest organisations had two or three paid staff. These were often newer organisations, and not all were fully operational.

The responses shown below were taken from the interview scripts and have been clustered according to the main emerging themes. As described above, the sample was not selected to be representative of the social enterprise sector as a whole or even of the social enterprises working with prisons and probation services. Rather, it was selected as examples of the different types of social enterprises working in a different range of circumstances. As such it has not been possible to generalise their comments and views. We have attempted to present these to show the range and depth of experiences and views offered by the respondents. Unless otherwise stated, each comment is the opinion of one respondent.

It should be noted that many of the comments made by social enterprises in relation to working with NOMS are consistent with other research findings and the researchers' experience of social enterprises working with other parts of the statutory sector, particularly in relating to procurement and commissioning issues.

### **2.3.2. Contracting and payment**

Only three social enterprises were delivering contracts that had been competitively tendered and were paid for by prisons from their own core budgets. One of these had also received a £5,000 start up grant from the Ministry of Justice. Three respondents had contracts directly with probation services, which were funded from the probation services' budgets to supply Community Payback services. Some of these were described as 'protected' tenders but these will be open and competitive tender processes when the contract is up for renewal. Two other social enterprises were delivering Community Payback opportunities but without receiving any payment from probation services. One respondent was delivering multiple contracts that had been competitively tendered, funded by Youth Offending Teams (YOTs), the Supporting People Programme, Primary Care Trusts (PCTs), Drug and Alcohol Action Teams (DAATs) and directly from NOMS.

The other social enterprises were delivering services for prisons and probation services that were funded by third parties, either other statutory agencies or charitable trusts. Two were contracted to the DAAT's Drug Intervention Programme one of which had received start up funding from the European Social Fund (ESF). One respondent was funded by an ESF/Learning and Skills Council grant. One 'special purpose vehicle' had been given a £15,000 grant by NOMS and aims to earn income by trading and grants. Another had received ESF EQUAL programme funding, matched with

‘in kind’ support from the Prison Service. One proposed ‘special purpose vehicle’ had been developed by the (then) DTI’s Phoenix Development Fund for consultants to undertake ‘proof of concept’ work - this had been competitively tendered by the DTI. One organisation had a grant from the Tudor LankellyChase Foundation, one was delivering services in a prison funded through its existing resources and was receiving a Tudor Trust grant to fund additional work for a pilot project. One organisation was currently in receipt of a £5,000 spot contract with probation service but had been told that this would not be renewed because of cuts and were funding all their work with offenders through surpluses earned through other trading activities.

When asked specifically about the nature of the contracting process, three respondents had been through a full, competitive tendering process, two had what they described as ‘protected tenders’ and two said they had unpaid Service Level Agreements.

Asked about the length of the contracts, five respondents had contracts that lasted for three years, two respondents had DAAT contracts that were for one year and one organisation had funding for a three year pilot project. In general the view was that three years was the minimum acceptable length for a contract.

### **2.3.3. Partnership working**

We asked the respondents if they are working in partnerships to deliver services. Of those working with prisons, three said they were currently working in partnership with others and of those working with probation services, two respondents said they were working in partnerships. One respondent from a large social enterprise said that they worked in partnership with public and private sector organisations and sub-contracted some work to smaller social enterprises. One respondent from a medium sized organisation said that they were planning to develop a consortium to enable them to bid for larger contracts.

### **2.3.4. Types of activity and target beneficiaries**

We asked respondents what kind of work they were delivering for prisons and probation services, in particular, which of the seven NOMS strategic pathways for reducing re-offending they were helping to meet. Our sample group was overwhelmingly providing Education Training and Employment (ETE) services, as can be seen from section 2.2; this reflects the wider population of social enterprises working with NOMS.

Four social enterprises were providing training and some sort of employment experiences or job brokerage as part of Community Payback. Three respondents were providing generic ETE services in other parts of NOMS’ work. Six organisations were providing specific trading activities that created employment opportunities (temporary work experience or permanent) for offenders. Two were working in agriculture and

horticulture; one was working primarily to create bio-diesel but also offering horticulture services. Two organisations were providing catering services, one was running a recycling enterprise and one had attempted to set up a hospitality and conference business. One respondent was providing financial services, one was offering support relating to drug abuse and two were delivering a range of services that covered different pathways - one specified that this includes accommodation provision.

### **2.3.5. Risk**

We asked respondents if their work was with low, medium or high risk offenders. Responses varied depending on the type of work being done and the context - in custody or in the community. Two respondents working in prisons said that the prison undertook risk assessments and nominated prisoners to work with them and that they had no influence over the selection process. Seven respondents said they worked with low risk offenders. Of these, one respondent said that they would work with higher risk offenders but would want more money to do so; one said that they worked with low risk offenders but that their own staff and volunteers could be medium to high risk and that they would work with higher risk offenders if they were asked. Two organisations offering Community Payback places said that they would only work with low risk offenders because of the impact on their other clients who are from vulnerable groups. One respondent said that they would only want to work with low risk offenders because they were concerned about exposing the business to risk. Four respondents said they work with all categories of offenders and one specified that this includes sex offenders and those on licence for murder. One organisation provides services for people with complex needs including those affected by drug and alcohol misuse, mental health problems and learning disabilities. One organisation specifically works with medium and high risk offenders - perhaps significantly, this social enterprise was founded by a former probation officer.

Of the social enterprises working in prisons, three have key holder status.

#### **Case study - Creating positive outcomes for high risk offenders**

Ex-Cell is a registered charity in the process of setting up a Community Interest Company (CIC). The organisation is based in Manchester, has two members of staff and works with forty offenders per year. They offer education, training and employment support to persistent, prolific offenders with drug or alcohol problems. They run an intermediate employment and learning programme, providing six month paid work placements. Placements are either with external, mainstream providers or internal, recycling and selling IT equipment through the social enterprise.

Ex-Cell works with the local probation service, but the work is contracted to the Drug and Alcohol Action Team (DAAT) within the NHS. Ex-Cell is hoping

to work as a sub-contractor to the Probation Service if its tender for ESF money is successful. One of the reasons for setting up the CIC was to make consortium and partnership working easier to undertake. They have chosen to work with medium and high risk offenders, a difficult group to work with which often has poor outcomes. What makes them different from other providers is that as a small organisation they can sustain one to one relationships with their clients. As a result their outcomes compare with those of providers who work with lower risk offenders.

The founder of Ex-Cell is a former probation officer and this experience has helped to build relationships with the Probation Service. The social enterprise activity was franchised from another successful social enterprise. However, funding is short term and the contract with the DAAT is only for a year at a time.

### **2.3.6. How relationships between social enterprises and NOMS developed**

We asked respondents how they had started working with NOMS in their current relationships. In almost every case the relationship had evolved from pre-existing contact or was instigated through networking of some kind. Two organisations had specifically been approached by probation services and asked to host Community Payback places. In one case the social enterprise had approached the probation service for some unpaid labour to work on a maintenance project, and this had led to them being asked to host Community Payback. In one case the probation service had approached the social enterprise actively seeking social enterprise partners for other work.

Other relationships had been built from a variety of starting points. One large social enterprise was working on a pilot project that had been instigated by a senior civil servant in the Ministry of Justice. One social enterprise had been set up by a former probation officer. In one instance a Job Centre Plus employee working in a prison had approached the social enterprise and asked if they could provide a service in response to an identified problem within the prison. One social enterprise was a spin off from a large voluntary organisation with a long record of working in prisons. One 'special purpose vehicle' had been created from within the probation service. One had developed contacts through existing networks and in one social enterprise the Director had met the Director of Probation Service at a pre-qualification event, resulting in the enterprise being offered a contract to host Community Payback. In one case the social enterprise had approached their local probation service and YOT and offered a service. In one case the respondent said that the relationship started by chance; a member of their staff had a relative in prison who needed support and their service was developed from this starting point.

All but one of the respondents identified new opportunities for growth, and in many cases they were actively pursuing the opportunities. The one

exception was operating a new relationship with probation for which they were not getting paid.

### **2.3.7. Monitoring and evaluation of social enterprise work with NOMS**

We asked the social enterprises how the work they were doing for prisons and probation services was being measured. The responses ranged from respondents' organisations undertaking their own monitoring and evaluation of their work, to other external bodies requiring them to evaluate their activities, normally those bodies that were funding the work.

One respondent said that the work had been evaluated by Ofsted. One said that the work had been evaluated by the local authority that was one of their funders. One had been evaluated by a charitable funder and one had been evaluated by the DAAT, as the contracting agency. One respondent said that they had undertaken lots of evaluations of their work and that these had been used to improve their performance. One respondent said that the organisation used PQASSO<sup>4</sup> as an internal performance management tool. Another said that the social enterprise had just undertaken a general social impact review and produced a report - however, this did not refer to their NOMS work as they were not getting paid for it - they would include an evaluation element in any fee. Five respondents said that they were not measuring their work, in one case because the work was new. There was no evidence that these evaluation reports were being reviewed by prisons or probation services and no evidence that prisons or probation services were commissioning any monitoring or evaluations themselves.

### **2.3.8. Key issues raised by social enterprises**

The aim of undertaking semi structured interviews with respondents was to enable them to raise any issues that they thought were important to their work with NOMS and to allow the researchers to interpret any emerging themes. The following responses were made to a number of different questions and in this report we have decided to present these comments thematically, to illustrate where there was a broad consensus of views. Within the themes, some responses were positive and others were negative. Some responses are shown as direct quotes and others are taken directly from the researchers' notes.

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<sup>4</sup> A performance management tool used by many voluntary and community organisations

### 2.3.9. Providing added value for offenders / success rates

Respondents stated that:

*“The key success factors are our ability to deliver accredited training and also empathy with offenders - offenders love the work so their attendance and compliance is better than with other providers”*

*“Drugs and alcohol is high profile. These offenders are very hard to work with and have poor outcomes. [There are] very few niche providers of this service.”*

*“Probation likes our outcomes but say they have no money. Our outcomes compare very well with providers for other ILM groups who do not have the difficulties associated with drug and alcohol misuse. We put this down to the one-to-one relationships we can sustain as a small organisation.”*

*“As non-statutory organisations third sector groups are seen differently by users. It is not compulsory to engage with them and they are not seen as the enemy.”*

#### **Case study - Money management support for prisoners**

Leeds City Credit Union (LCCU) has 21,600 adult and 3,600 child members and employs 47 staff. They run a Money Management scheme in HMP Leeds, funded by the Tudor Trust. The scheme aims to help prisoners with financial issues such as rent arrears, mobile phone debt and benefits problems. The LCCU staff member can contact creditors on prisoners' behalf and will also work with their partners and families. Prisoners can also open up a credit union account, which enables them to save up their prison earnings for their release. Having a credit union account also addresses the key issue of prisoners leaving prison with no fixed abode, as any earnings or benefits can be paid directly into their account. This is seen to help prevent re-offending.

As key holder at Leeds Prison the Money Management staff member has become well known to prison staff. This helps to overcome the problem of limited knowledge throughout the prison of what involvement by outside agencies entails.

There has been interest in the scheme from Belmarsh prison, and the LCCU would be happy to disseminate the model throughout the credit union movement. They have all the protocols, templates and forms in place which could be replicated in other prisons to address the key issue of prisoners leaving to go to no fixed abode.

Another respondent said that additionality means being able to provide a highly supportive work environment and an infrastructure for dealing with the sort of work issues offenders are likely to have.

*“There are many training organisations but few providers can offer a supported work environment.”*

Another respondent said:

*“We have a unique product portfolio that embraces all three major social care fields. This means we can offer integrated packages of connected care in a way other providers cannot.”*

The respondent believed this offered a better, more joined-up service - tailored to offender needs.

One respondent identified three key performance indicators that they use to measure success:

- Heightened compliance. *“Probation clients really enjoy working with us and are more likely to turn up”*
- Individuals are completing unpaid work orders earlier than they were mandated to do so. Again this highlights empathy of staff with clients
- Movement from Community Payback to employment or volunteering is higher. Three paid members of staff were formerly on Community Payback orders

One respondent described how this added value is measured in their social enterprise and is recorded for monitoring purposes:

*“After ticking all the boxes we will then add in people outcomes or case studies of individuals we have worked with showing that they have not gone on to re-offend even if this was not one of the prescribed outcomes.”*

One respondent claimed that they normally get 8% of people into employment, which, according to the respondent, is a high proportion for this particular client group; people with mental health problems.

One respondent described the added value that they offer as leading to:

*“Better compliance with orders and licences and a reduction in offending by changing attitudes.”*

This respondent however, had no specific knowledge of NOMS' Key Performance Indicators.

Another respondent described the benefit of their service as "dealing with financial worries alleviates stress", and said that she was "passionate about our prison work - it's about changing someone's life". She has had many letters thanking her for her support and the social enterprise has used these to write case studies.

However, some respondents made some negative comments about how the value of their work is viewed by prison and probation services.

One respondent that was offering unpaid Community Payback places complained that they had an overload of administrative work to very little effect. They had only been given two placements and one hadn't turned up, which caused additional paperwork. The respondent said that she would like more feedback from the probation service about the people they had placed.

*"We had one placement who simply disappeared. I wish they had told us what the outcome would be ... Why are they not using us more? We would really appreciate some feedback."*

One respondent was from a social enterprise with small existing contracts with local prisons. The prisons are now saying that they cannot afford to renew the contracts and have asked the social enterprise to train up prison staff to deliver this work.

Others said:

*"This is much less effective as prisoners have far more empathy if the training is delivered by young fathers from outside not internal authority figures."*

*"They want accredited training and quantifiable outcomes. They hate counselling and therapy because it is hard to set targets or measure outcomes. It is all about short-term superficial KPIs [Key Performance Indicators] and achieving economies of scale through low quality high volume interventions."*

*"[The client has] no grasp of the additionality of value that social enterprise offers."*

### 2.3.10. Understanding the culture of social enterprises

Many respondents referred to having experienced difficulties working with NOMS because there was a lack of understanding within prisons and probation services about what social enterprises are and how they operate. In some cases this related to confusion about the differences between social enterprises and the voluntary and community sector. In other cases it was the difference between a large statutory sector organisation and a small independent organisation. In some cases the problems related to prison or probation staff not understanding how a business needs to operate.

We asked the social enterprises if they described themselves as social enterprises when they were trying to obtain work from NOMS and if they thought this made a difference. We also asked about how contracts were managed and how their status was regarded within NOMS, relating in particular to issues of risk, supervising offenders and access to clients. We asked whether and how these issues had been resolved. The specific issue of risk is covered in the next section.

In response to the question ‘did you describe your organisation as a social enterprise in the tendering process? If yes - do you think this was of interest to contactors?’ answers included:

*“Not sure. I think NOMS does not really understand social enterprise but that the political kudos and fashion element of social enterprise scores extra points. We became a CIC in 2006 and it has been very useful in winning contracts.”*

*“Not really - we’re seen as just another third sector provider by NOMS.”*

*“Probation manage a small number of direct contracts but they are not used to dealing with external contracts delivered by an organisation like ours. They have an old-fashioned, clumsy and slow internal business management model.”*

Another respondent said that both prisons and probation services are suspicious and see social enterprises as risky and unreliable. Another said that they do not believe that prisons have any idea what a social enterprise is, and another said that they do not think that NOMS cares about the business model that delivers the service.

Some of these cultural differences were seen as relating to the fact that social enterprises trade and make profits - before reinvesting them.

One respondent said that they have attempted to negotiate a price on the basis of full cost recovery, but that the probation service was very tough negotiating its approach on costs.

*“If you factored in what it costs to offer this service, including all our fixed costs, running the contract would be cost neutral at best. However it delivers on our social objectives which are as important as our business objectives.”*

Other comments were:

*“People dislike us doing this [full cost recovery]. Their attitude is that we are happy that you have a successful business in place. Why should we pay you more?”*

*“There is an expectation amongst prison staff that all the money we take in is profit - margins are tight and they forget about costs. Prison staff see a direct link between trading and how they can reduce the size of their budget - there is a lack of commercial awareness.”*

In other cases the cultural differences were seen to be based on the statutory status and law enforcement culture of NOMS, as opposed to the independent and supportive culture of the social enterprise.

*“We have had resistance from prison officers - there is a need for good communication. We deliberately maintain a distance and separation [from the prison culture].”*

One social enterprise said that they had initially experienced some animosity from prison officers, who were required to sign a document as part of the social enterprise delivery process. However, this had been overcome once the prison officers saw the benefit of the service and they have since built up a very good working relationship.

Others commented on experiencing mistrust from prison and probation staff, but it appears that this relates more to the fact that the social enterprise is employing ex-offenders to deliver its services, rather than an inherent distrust of the social enterprise model.

*“It’s chiefly suspicion by middle managers of working with offenders, especially their fears around disclosure of sensitive information. We would have welcomed more support from probation; we found their attitude very discouraging.”*

*“Middle managers fret and worry about our access to sensitive information and what happens if our volunteers are still*

*offending....They need constant reassurance about our internal monitoring and supervision.”*

### **2.3.11. Risk**

The issue of security risk was addressed in a number of ways. As described above, respondents were asked the specific question about the category of offenders they were working with, but there was also discussion about perceived risk and about how the social enterprises responded to the very real risks of working with offenders, particularly within a prison.

*“We would work with medium and high risk probation clients if asked. We have the infrastructure and staff with expertise in the social care field. We are accustomed to working with this client group.”*

*“We have been concerned about getting the information but it seems to be OK. We already hold secure, confidential medical information and have the systems to deal with that and to satisfy the NHS, for example our laptops are encrypted.*

Many respondents had very specific reasons for working with a particular category of offenders:

*“We need to protect other vulnerable people we work with. We also have special security issues around data handling. We want to work with low risk offenders. We assume that people on Community Payback must be low risk or they would have been sent to prison instead.”*

*“We work with medium and high risk prisoners. We find high risk easier - they [prisoners] are much keener to participate.”*

As described above, a particular issue arose for those social enterprises that employ ex-offenders to deliver the service. An issue was also raised about working with serving prisoners and giving them work to do for the social enterprise:

*“Ex-prisoners are never allowed to be key holders and are closely supervised. We are a key holding organisation. Prisoners who work in this project are nominated by the prison and we have no involvement or say in this.”*

*“Security clearances are negotiated prison by prison. All our staff have enhanced CRB checks and they all attend the prison security training. Staff are key holders.”*

One respondent described the process in detail and identified a specific problem:

*“We have not been able to dictate or be involved with the recruitment of prisoners. The training departments claim to be short of suitable risk assessed people. I’m not sure why this is. We would prefer to take more risks and work with a wider range of people. Prisons are very, very risk averse places and are very careful about the level prisoners are at before they are able to participate in social enterprise activities - we are working on this but I don’t think we get sufficient support. The biggest risk is passing drugs when serving at a tea bar and this is a very high risk. Prisons need to be more comfortable with our ability to supervise prisoners.*

*I would like to develop this further but the difficulty is that this work tends to come at the end of a sentence and the prisoners will all have been risk assessed. It would be better if risk assessment could take place earlier in the sentence because the high turnover of staff as prisoners are released can be problematic for us.”*

One ‘special purpose vehicle’ set up within a prison had similar problems:

*“We have experienced a problem working in xx Prison because one of the three directors used to be a prisoner. Probation staff had to escort him when he visited the prison to talk to a prisoner about our work. We will work with low risk offenders. We don’t want to expose the CIC to unnecessary risk. We need to build up a track record and reassure probation staff.”*

One organisation said that:

*“We manage risk very well and our statutory sector partners know this”*

One organisation gave ‘ability to manage risk’ as one of the top three skills needed to work with prisons and probation services.

### **2.3.12. Money**

There were relatively few general comments about money, although some issues are raised below under the more specific heading of commissioning and procurement. To one degree or other these comments mostly demonstrate respondents’ frustration with the limited resources available to support their work.

One respondent stated that all of the work their social enterprise undertakes in prison is currently grant funded, rather than paid for by the prison. He sees little hope of winning contracts with NOMS but does not rule it out. He commented that existing work in prisons has been heavily curtailed due to budget cuts, which means prison staff are not available to supervise work or provide resources like greenhouses.

The respondent is currently delivering a pilot project funded by a major charitable trust. The start-up funding was provided on the condition that the project would become self-sustaining within 3-5 years.

Another respondent stated that he would love a contract and feels he is being exploited. The social enterprise provides an excellent service with outstanding outcomes showing low recidivism. The respondent says they should be paid. The service costs 15-20k for them to provide.

*“We are sick of winning awards and accolades. The local police recently commended our outstanding contribution to Community Safety, but none of it ever comes with a cheque!”*

One respondent commented that their work is limited by the nature of Community Payback, as only 20 per cent of people’s time can be spent on training and education.

*“People are here, we could do a lot more in terms of providing accredited training but we are not allowed to.”*

### **2.3.13. Contracting and procurement**

There is relatively little direct contracting taking place, where prisons and probation services are commissioning with social enterprises to deliver services funded through their own budgets. Some contracting is taking place funded by other sources, such as the European Social Fund. Some social enterprises are attempting to tender for contracts. Two respondents had clear views about contracting processes, one is attempting to tender and the other is already delivering contracted services.

One respondent already delivering contracts was frustrated at the role of the central procurement unit at NOMS:

*“NOMS are now insisting that all contracts are put through their procurement unit. A group of prisons approached us recently and NOMS got cross and insisted the contract go through the procurement unit - but they are so busy nothing is happening.”*

The social enterprise already has funding in place from another source to pay for the capital costs of opening up a new facility and they have now

been waiting 18 months but there seems to be a complete block in the procurement unit. The social enterprise risks losing the promised funding as it is all taking so long. They are under the impression that it is because of all the changes that are going on in the Prison and Probation service.

This respondent thought that contracting is getting more difficult because of these procurement issues at NOMS, they thought that the system had stagnated and needs freeing up. The respondent is also worried about how far the tendering process will be pushed. This social enterprise delivers a package of services and it would be difficult if it was broken down into much smaller contracts - they would lose economies of scale and efficiencies.

One other respondent attempting to contract with NOMS to deliver services thought that there were added benefits to be gained:

*“The kudos of a contract with the probation service makes us seem like a stable and robust trading organisation and [we believe it] will attract other business opportunities”.*

One respondent had attended a pre-qualifying event organised by NOMS to develop sub-contracting partnerships and was unhappy with the way that the event was organised:

*“We knew a lot of the potential prime contractors and it was obvious to us from the state of their finances and cash flow that they were never going to be selected. Meeting these people was just a waste of our time.”*

The respondent said that every organisation that had applied to be a prime contractor was at the event. The respondent thought that they had wasted hours queuing to see a contractor only to be told the contractor would not be delivering in their area. The respondent thought that NOMS could learn a lot from the way that the Department of Work and Pensions organises similar events. They pre-plan 5 minute speed networking presentations so that all of the sub-contractors get to make their case to the right people.

#### **2.3.14. ‘Special purpose vehicles’ and independent social enterprises**

We identified six enterprises in our sample that had been set up by people within the Prison or Probation Service to deliver services. Other respondents were working with NOMS in what were described as ‘top down initiatives’. ‘Special purpose vehicles’ are discussed in depth in section 3.2.

## Part 3. Future opportunities, summary and recommendations

### 3.1. Assumptions

This summary provides an overview of the findings from the prisons and probation services and from the social enterprises, showing what we found from the research process, what this means and what needs to happen next. However, it is first necessary to identify a significant assumption that underlies the expectations of many social enterprise and prison and probation respondents. Overwhelmingly, social enterprises are working to reduce re-offending through the Education, Training and Employment (ETE) Pathway. And there appears to be an expectation by NOMS that this aspect of their work is uniquely valuable.

Previous research has shown that:

*“Compared with the general population ... prisoners are thirteen times as likely to be unemployed*

*(Reducing re-offending by ex-prisoners, Report by the Social Exclusion Unit, ODPM July 2002)*

And that:

*“Many prisoners’ basic skills are very poor. 80 per cent have the writing skills, 65 per cent the numeracy skills and 50 per cent the reading skills at or below the level of an 11-year-old child. (ibid.)*

Government evidence shows that:

*“67 per cent of prisoners were unemployed at time of imprisonment”  
(Reducing Re-Offending Through Skills and Employment, Green Paper, Secretary of State for Education and Skills, December 2005)*

Evidence suggests that employment and a reduction in re-offending are linked, and that stability and quality of employment, along with the level of satisfaction expressed towards it, are key factors.

A recent research review found that interventions focused on employment can make a significant difference to the employment rates of offenders. In six out of seven intervention programmes identified by the review, offenders in the treatment group were significantly more likely to be employed at least six months after completion than those in the comparison groups. The review suggested that work in prisons, vocational training and community employment programmes can all have a positive impact on employment (ibid.)

### 3.2. 'Special purpose vehicles'

Within this research we have identified the model of 'special purpose vehicles'. These are projects, activities or enterprises set up within a prison or probation service, in the main by existing staff. We have identified eight examples of this model and have had contact with seven of them. Because of their hybrid status, four of them were interviewed as social enterprises, one was mentioned during an initial interview with a prison and another was discussed in an extended interview with a prison. We were referred to another example through an external evaluation and undertook a one-off interview with the person who had developed the social enterprise. Of the eight examples, three have either failed to become operational or failed soon after opening.

Twelve other respondents said that they were interested in developing these models but had not done so because they had no clear guidance how to go about it.

All of these social enterprises were at the development stage and not yet trading. The most highly developed felt able to trade but were deliberately opting not to move forward until clarification could be gained from NOMS on legal concerns. Indeed, 58% of prison and probation service respondents involved in setting up social enterprises as 'special purpose vehicles', or aspiring to create them, cited concern over potential legal problems. However, this figure includes several who are at the aspirational stage. All respondents who had seriously attempted to progress 'special purpose vehicles' are now opting not to move forward until clarification can be gained from NOMS:

*"We need specific advice and guidance. The term social enterprise is used in many different ways and it is not well understood how it can fit within our organisation. All we know is that there are big legal implications if we get it wrong. "*

*(Probation Service respondent)*

Within the Prison Service, respondents equally cited concern over legal issues.

Interviews with respondents identified as social enterprises raised the following issues:

A typical comment about the way 'special purpose vehicles' have been set up was:

*"The social enterprise is responsible for management, commercial success and promoting the project and the people it has trained to the business community. All profits will be used for the benefit of prisoners and other initiatives at H.M.P. xx"*

The main motivations of the prisons and probation services for setting up these 'special purpose vehicles' were to access external funding and to be able to operate autonomously. However, these activities alone would not define the entity as a social enterprise as there would be no trading activity.

One 'special purpose vehicle' manages an initiative via an open tender contract because only an external organisation could employ prisoners. Also, it is much easier for a separately constituted organisation to hold a bank account.

One respondent described the rationale to set up the 'special purpose vehicle' was led by consulting with prisoners. The key service will be to function as an employment agency providing for private sector requirements. This will be the main income generating activity. A secondary activity is advice and support on self-employment. Both activities were identified by offenders as what they wanted. They were disillusioned with mainstream employment agencies, particularly around prejudice towards offenders and lack of understanding of how to disclose criminal offences. Many prisoners saw self-employment as their best hope of finding work.

One social enterprise respondent identified with the criminal justice system and saw the social enterprise as part of it. The respondent had previously been employed by the probation service and the 'special purpose vehicle' was based within statutory agencies.

One respondent said that the aim had been to create a limited company, for which they had to have a bank account. This could not be done within the auspices of the Prison Service. The case was referred to the House of Lords, according to the respondent, but no way round the problem could be found. They could not trade as a limited company. They did not want to be a charity, just a pure trading company, but had to set up as a charity. The respondent thought that the charitable side of things made it too complicated. Also, they wanted to guarantee that any surplus would be re-invested for the benefit of prisoners and thought that a company limited by guarantee was the best vehicle for achieving this.

Prisoner engagement had been a big problem. They had prisoners on the board but for most prisoners their main priority was to establish independent work that did not involve the prison in any way. Many were at this prison on a short-term basis. The respondent reported that prisoners said that they wanted their own business but not many were prepared to make the effort to turn a dream into reality.

One respondent referred to the motivation for establishing a social enterprise as:

*"A big advantage of having a link with probation is that they know exactly how to get funding and from who. Part of the motivation for*

*probation for getting involved was being able to use the CIC to access funding not directly available to probation as a statutory agency”.*

Another described the motivation as:

*“Only an external organisation could employ prisoners and it’s also much easier for an external organisation to hold bank accounts.”*

One respondent, who had tried unsuccessfully to set up a social enterprise within a prison, said that there were some endemic problems within the structure of the Prison Service that they had failed to overcome.

*“The prisons didn’t understand. All their budgets are annual and they are not allowed to carry forward any surpluses. We couldn’t create budgets for, say, marketing with money that needed to be invested in the growth of the business. We had no control over the money and had to negotiate with the Home Office every time.”*

This respondent said that the main problem was not the rules or the culture but the people who interpreted the rules. Decisions were taken for other than business reasons.

*“Either it’s a business or it isn’t. If it’s a business get a business person to run it. If it’s a vocational project, fine, let the HOLS [Head of Learning and Skills] run it.”*

In another embryonic ‘special purpose vehicle’, an evaluation had been commissioned by the project managers and had identified a similar issue:

*“The prison staff did not have a background in business development nor the writing of business plans, however, they were able to draw on the knowledge of some prisoners and programme advisers.”*

The main difficulties cited were:

- Not having clear guidance from NOMS as to what legal structure they could set up within the prison or probation service (cited by 58% of respondents who were already developing social enterprises or thinking of doing so)
- Not having clear guidance about how to open an independent bank account for the social enterprise and how this would relate to Treasury rules
- Cultural difficulties relating to having offenders and ex-offenders working for, and being board members of, the social enterprise

### Case study - Barriers to working with the Prison Service

Sunlight Trust established Sunlight Enterprises as a Community Interest Company (CIC) in 2006, working in the Kent and Medway areas. The CIC currently runs 5 cafes, a recording studio, a radio studio and a parenting academy, creating training and employment activities for people within the community. While the Trust receives around 20% of funding from the Big Lottery Fund and The Esmée Fairbairn Foundation, 100% of the revenue for the CIC comes from trading activities.

Sunlight Enterprises CIC receives referrals from the local probation service and prisons to host work placements. They previously received a small 5k contract to deliver parenting courses but this has now been discontinued as the prisons in question have withdrawn funding. The prison asked Sunlight to train internal prison staff to provide the courses, but Sunlight questioned whether internal staff, with a level of authority, will be able to achieve the same level of connection with prisoners, and consequent outcomes, as the young fathers from outside.

No further contracts exist with probation or prison services, although these have been sought in the past. Cited barriers to further contractual engagement include:

- The level of bureaucracy involved in receiving funds from European sources
- Perceived values and the issue of target-driven public sector practice clashing with outcomes-driven social enterprise practice
- Reluctance to become involved in Community Payback because of perceptions that this involves stigmatisation and unnecessary alienation of the beneficiary
- The belief that prisons and probation services will only contract with high volume providers

In addition to these stated problems, the analysis revealed that other underlying issues were:

- Prison and probation staff not having business experience
- Too much influence by prison and probation staff on social enterprise boards (including those acting as shadow directors and exposing themselves to personal liabilities for the business)
- Lack of evidence of market testing to ensure that the business is viable
- Some confusion as to whether this was a social enterprise and was going to trade, a voluntary organisation that would be seeking grants or a wholly owned trading wing of the prison or probation service
- Whether the motivation for setting up 'special purpose vehicles' was to fill identified gaps in service provision by spinning out social

enterprises or to try and control the supply chain as a response to having contracting out targets

- Concerns about whether there will be open competition for contracts issued by the prison or probation services if they are also stakeholders in one of the businesses that is bidding
- It was not clear in most cases how links were being made with employment opportunities after individuals had completed their sentences
- Lack of evidence as to whether or not this model will work and if so, what are the critical success factors

It is not clear what the perceived benefits are of starting a new business from scratch, over contracting with an existing social enterprise with an established track record.

Aside from these concerns, in order to be categorised as a social enterprise an organisation must be trading to a significant degree, fully independent of the public sector and able to make business decisions based on the needs of the market place.

It should be stated that the 'special purpose vehicle' that appears to be the most successful was developed by the organisation contracting with an existing social enterprise to help them start up the new business. Nevertheless it is too soon to assess whether or not these social enterprises will be successful as they are mostly at the very early stages of development and in most cases are not yet fully operational.

Other parts of the public sector, in particular the NHS, have also developed a strategic approach to working with social enterprises. This has particularly focused on the potential for externalising the provider arms of Primary Care Trusts (PCTs) and incorporating them as free standing social enterprises or community foundation trusts.

In both local government and the NHS, barriers identified for actual transfers of services include culture change, level of entrepreneurial skills development, TUPE regulations and the protection of the terms and conditions of staff transferred from a public sector employer to an independent organisation.

The benefits of setting up a 'special purpose vehicle' that were identified by respondents included:

- Being able to employ prisoners
- Being able to access additional money
- Having autonomy from the prison or probation service
- Being able to generate profits that could fund other prison or probation services
- Being prisoner or probationer led

An initial analysis of the seven 'special purpose vehicles' that we have contacted in the course of this research has enabled us to identify a list of the main problems that they have reported as having encountered, either in interviews with our researchers or in evaluation materials referred to our researchers.

The problems they identified were:

- Being dependent on the goodwill of an individual in the prison
- Prisoners as board members - not having a clear status
- The attitudes of some prison and probation staff towards offenders and ex-offenders delivering services - increasing risk, potential security issues, etc.
- Attempting to pay prisoners external day rates for the job - this created difficult dynamics within the prison when other prisoners were only receiving 'prison pay' for their work.
- Having no control over the workforce as prisoners are regularly moved around

These issues were also cited by independent social enterprises and are systematic to working in NOMS. However, the remaining issues are specific to the development of an internal model:

- Legal problems relating to setting up an independent entity within a prison
- Creating an independent bank account
- Being unable to carry forward money year on year so unable to budget or re-invest in the business
- Enterprises were not set up and run by business people
- It is unclear how robust the business plans have been, especially in relation to a knowledge of markets
- Having prison staff as board members - there is no reason to assume that they have business skills or priorities
- Ambivalent attitudes of offenders towards projects seen to be run by the prison - especially on release, when they want to put any links with prison behind them

More evaluation is needed to demonstrate to others within NOMS and beyond, what is working well and where there are problems, particularly in relation to 'special purpose vehicles'. Prison and probation staff need to identify what tools and techniques are available to measure the work of social enterprises.

NOMS should clarify questions such as:

- How does the board of a social enterprise sit alongside the board of a Probation Service Trust?
- What are the social enterprise board's legal liabilities?

- Would there be unfair advantage issues around contracting with a ‘special purpose vehicle’ under the competition and contestability guidelines?
- What are the alternative models that are possible within Trust status?

There must also be some concern that whilst having separate legal structures that meet the requirements of external funders, some of these ‘special purpose vehicles’ may not have the governance structures in place to enable them to operate as fully independent businesses in a way that would satisfy aspects of company or charity law or the Financial Services Authority

NOMS should undertake an evaluation of the various models of ‘special purpose vehicles’, including identified failed examples, in order to identify critical success factors for the replication of this model. There should be further consideration of availability and access to appropriate social enterprise specific business support to these initiatives.

### **3.3. Opportunities for future development and replication**

#### **3.3.1. Future opportunities for trading with social enterprises**

In general, our research identified a number of key areas for social enterprise involvement with offender management. These were:

- Community engagement and re-integration through work and training
- Community Payback
- Health services - joint commissioning by NOMS and PCT
- Trading services - alternatives to ‘special purpose vehicles’
- Providing core services to prisons and probation services where little activity is currently taking place

Opportunities for social enterprise service provision were identified as:

- Replication of existing social enterprise activities in other prisons and probation services
- Enabling more social enterprises to deliver services that reduce re-offending by making information about how to do this more widely available, using existing social enterprise networks
- Building on experience where there are proven areas in which social enterprises can successfully deliver services, in particular the Education, Training and Employment (ETE) pathway and Community Payback
- Creating more knowledge of social enterprises within NOMS so that this option is explored in areas where there are identified gaps in provision, such as within the Drugs and Alcohol pathway

- Open procurement processes through which social enterprises can deliver core services, part of which may take place under the introduction of Best Value to the probation service

The findings of this research identified both general areas for development and specific examples of social enterprise work that could be replicated elsewhere. In terms of specific examples, those given below do not comprise an exhaustive list as we only spoke to 18 social enterprises in depth. Nevertheless, the responses to the on-line questionnaire suggest that if you look in the right place, there are many service providers able and willing to work with NOMS. There are regional and national social enterprise infrastructure organisations that would assist NOMS to identify social enterprises in their areas.

#### **Case study - Innovative restaurant providing training for prisoners**

The Clink Restaurant in HMP High Down is training prisoners to high levels of culinary skill that will equal any external British college - serving staff, visitors and commercial customers. The social enterprise Eco-Actif manages the restaurant via an open tender contract. One of the main reasons for contracting out the management of the restaurant was to get round the issue of the prison not being able to employ ex-prisoners. As an external organisation Eco-Actif can employ ex-prisoners, easily set up a trading bank account and generally enjoy greater organisational flexibility.

The restaurant has three members of staff. The prison provides an additional chef and 16 serving prisoners as trainees. The trainees are nominated by the prison. The Clink aims to be fully self-sustaining, supporting the employed staff through profits, with the prison providing the training, trainees and premises.

The Clink currently has no independent legal status of its own, but the intention is that it will eventually become an independent CIC (Community Interest Company). The whole process has already been extensive and has taken four years to develop.

The restaurant has received publicity on BBC Radio 4's The Food Programme.

#### **3.3.2. Provision of work experience and training in the community**

A key area of potential growth identified for social enterprise is around the provision of unpaid work experience. For the Probation Service, this mostly means Community Payback opportunities. For Category D prisons, work experience in the community in readiness for release is fundamental for successful re-integration and reducing re-offending. An important differentiator between third sector and social enterprise provision is the quality of the supportive environment that the latter can offer. Another

distinctive feature of social enterprises is their strong community base which fulfils strategic imperatives to develop better community links. These were identified as key benefits of working with social enterprise by Prison and Probation respondents in extended interviews.

Research within both prisons and probation services identified a shortage of supported work places offering participants a high quality experience of work with accredited training. Our researchers were told repeatedly that offenders need some form of bridge to build confidence and acquire skills before they can access mainstream employment opportunities. This is a gap that social enterprises are already starting to fill, with scope for further expansion.

#### **Case study - Partnership working**

The Torbay Enterprise Project (TEP) is a partnership of social inclusion projects involving approximately 15 agencies. Partners include Torbay Council, Torbay Health Care Trust, the local Probation Service, DAAT, Chapter One Housing Association, the Eden Project, Shekinah Trading, Torbay Retail Network and Torbay Development Agency.

Arising from these existing links between agencies, funding has been secured for a £1.5 million Torbay Enterprise Centre in the centre of town. It will house a training kitchen and café open to the public, training and exhibition rooms, green collar technology training workshops, a CISCO IT academy, a community gymnasium, the Probation Service Community Payback workshop and Probation's employment and training services, together with housing advice, benefits, drug treatment and other support services.

TEP is seeking to develop a prison strand called Second Chance, which is about providing opportunities for offenders. The private company CISCO has IT academies in 37 prisons and plans to expand to three prisons in Devon and Cornwall. The Eden Project works with the Shekinah mission to run the Growing for Life horticulture project in HMP Dartmoor and also intends to expand to other prisons in the region. The Enterprise Centre will be the hub for co-ordinating this type of work and also the resettlement work needed for offenders who stay in the local area on release.

The popularity of social enterprises regarding this type of provision is evidenced by the speed with which collaborative working is already taking place for Community Payback purposes - most relationships are relatively recent. All relationships that probation services had established with social enterprises were reported to be very satisfactory - delivering better outcomes than other third sector partners.

Our findings suggest that prison staff would have been equally happy with social enterprise provision of work for prisoners pending release. However, collaboration is possibly not taking place because Heads of Reducing Re-offending (the most important and influential managers with regard to third sector relationships) in Category D prisons may lack knowledge and understanding of the benefits of social enterprise, how to identify them and establish links.

### **3.3.3. Provision of work experience and training within prisons**

Within most prisons, internal economic activity is already taking place and there seems to be a growing trend for linking with third sector partners. Prison respondents feel there is scope for social enterprises to provide more meaningful work opportunities within prisons and it meets the restorative justice agenda. It appears that because of the complexities of setting up and managing social enterprises as 'special purpose vehicles' within the Prison Service, external organisations with key-holding status maybe better suited for this purpose. Working with non key-holding organisations, which must be escorted, is identified as a drain on staff resources and making extensive involvement with outside agencies unfeasible.

#### **Case study - Employment agency for ex-offenders**

Second Avenue is an initiative led by West-Mercia Probation, with the aim of reducing re-offending. A feasibility study was carried out, paid for by the LSC, and start-up funding was provided by NOMS and the Office of the Third Sector. The organisation is still in the development stage, having only recently registered as a Community Interest Company (CIC).

Second Avenue will be an employment agency providing the private sector with the workforce they require. This will be the main income generating activity. Secondary activity will be advice and support on self-employment for Probation Service users. Focus groups with offenders and ex-offenders informed the development of these activities. Offenders believed that mainstream employment agencies showed prejudice against them and did not understand how best to disclose criminal convictions. Many offenders saw self-employment as the best opportunity for them to find work.

Second Avenue has already started to receive referrals from the Prison Service, and self-referrals from ex-offenders in the local area reacting to press coverage of the start-up. They are attempting to find a place within the mature employment agency market and face the challenge of persuading employers to contract temporary staff through them. As a partly offender-led initiative, also involving probation staff, they intend to work with low risk offenders in order to build up a track record to reassure those they work with, both in the private sector and in the Prison and Probation Service.

We understand that those who developed WORPP in Ford Open Prison believed that model to be sustainable and suitable for replication. It is only at start-up stage and so there is not a sufficient trading history to make a judgement.

The Clink restaurant in HMP High Down is also seen as a replicable model. It is managed by another external social enterprise and may demonstrate the benefit of bringing external business expertise to the process of setting up a 'special purpose vehicle'.

### **3.3.4. Provision of pathway specific services**

NOMS respondents identified a shortage of niche provision including women's services, teaching disabled offenders, sex offenders and older prisoners. Further research into the successful provision of these services would be useful.

A particular shortage identified by respondents was in alcohol services to both prisoners and probation service clients. We were told there is a specific shortage of quality providers of alcohol services in prisons. Drugs and alcohol interventions are essential services and less vulnerable to budget cuts than some other pathways, although typically funded by PCT/DAAT/NOMS partnerships. For the Probation Service, these services appear to be purchased locally where small third sector providers are well established.

The Independent Trust and Nelson Trust in Gloucestershire, and Swanswell Trust in Warwickshire, are already providing drugs and alcohol interventions as social enterprises for the Probation Service. The Bridge Programme in Northamptonshire is a social enterprise that provides innovative and highly successful alcohol interventions. The DAAT are apparently interested in replicating this model elsewhere.

### **3.3.5. General**

Frequently the issue is not a lack of available provision. It is rather that probation services and prisons are possibly not networked in with the local third and social enterprise sector, and are not aware of potential local service providers. When Lancashire Probation deliberately recruited a Partnership Officer with specific knowledge of social enterprise they almost immediately established relationships with four or five social enterprises in the area.

### Maximising positive elements of Community Payback

CHASE is a small, local social enterprise providing city & guilds accredited training and work experience through urban agriculture and horticulture projects. CHASE is 100 % reliant on trading income, principally trading with the Probation Service and LSC. The size of contracts has grown progressively year on year.

Key success factors are the ability to deliver accredited training and the ability to empathise with offenders on the Community Payback scheme. Offenders really enjoy working with CHASE and so their attendance and compliance record is much better than with other Community Payback providers.

The views of the social enterprise interview respondents support the findings from the on line questionnaire, showing that it is the economic-based Education, Training and Employment pathway that is the most prevalent. Additionally, of the 14 respondents who stated that they were developing new services in this field, a further three were focused on getting people into work through enterprise development.

Health and social care services appear to be an area for potential growth, with just under 20 respondents working in this sector. This is the largest sector of social enterprise providers in UK, but this does not seem to be reflected in the NOMS services. Other potential growth areas identified by social enterprises are; finance, benefits and advice and drugs and alcohol services.

Specific examples from the social enterprise interviews have identified the following areas of work that they are keen to develop further:

Work	Area	Social Enterprise	Prison or probation
Work experience in refurbishing and recycling IT equipment	Essex	Millrace IT	Probation CP
Work experience and training in agriculture and horticulture	South Yorks.	Chase	Probation
Employment and accommodation support	West Yorks.	Create CIC	Probation CP
Work experience and training in horticulture and life skills	South West	Eden	Prisons
Saving facility and money management support	Leeds	Leeds City Credit Union	Prisons
Running catering facilities in Visits Halls and providing work experience	Various	pact lunch	Prisons

Running catering facilities and providing work experience	Surrey	The Clink (Eco-Actif)	Prison
Tackling drug and alcohol addiction	Northamptonshire	The Bridge	Probation
Working with ex-offenders with mental health problems to reduce re-offending	Cornwall	Pentreath Ltd	Probation
Refurbishing and selling furniture	Leicestershire	SOFA	Probation CP
Various services - specifically supporting young fathers	Kent	Sunlight Trust	Prison
Enterprise centre to support offenders through various activities delivered by a partnership	South West	Torbay Enterprise Project	Prison and probation
Various	London (national)	Turning Point	Prison and probation

### 3.4. Advantages of social enterprise activity

Most social enterprise activity identified relates to the ETE pathways in their work with prisons and probation services. In addition, Community Payback services are a growing area in which social enterprises are delivering NOMS' services. Social enterprises claim that they offer added value to services and the responses from prison and probation staff seem to validate this claim. In many cases, prison and probation staff have identified that the added value that social enterprises offer them is critical to the success of the working relationship.

#### 3.4.1. Prison perspective

Within most prisons, internal economic activity is already taking place and there seems to be a growing trend for linking with third sector partners, such as Computers for Africa. Prison respondents feel there is scope for social enterprise to provide more meaningful work opportunities within prisons and it also meets the restorative justice agenda that NOMS values.

The following advantages were repeatedly provided of social enterprise and other third sector activity in prisons:

- Builds prisoners' confidence and self esteem.
- Helps keep prisoners engaged with the community.
- Encourages prisoners to see beyond their normal parameters, and puts them in to new situations.
- Increases offenders' skills levels, self-worth and self-discipline, and it gives them a link with the outside community when they leave.

- Social enterprise provides the opportunity to be entrepreneurial and is a good way to engage prisoners and provide employment.
- It makes the experience of imprisonment less damaging and it helps to maintain a prisoner's life and social skills and hopefully makes them better people when they are released; it can be very demoralising being locked up.
- Prisoners relate better to external staff, and non-uniformed staff. This helps break down barriers between prisoners and prison staff. Prisoners can see that the prison staff are trying to help them.
- The prison staff can't be specialists in all areas - this brings in expertise in other areas. It brings in valuable expertise and specialist knowledge. "Different people working for different organisations with different objectives bring a different perspective to the prison."/ Get specialist knowledge on areas that couldn't be provided by the prison. You get people coming in who are independent and who bring a fresh perspective.
- Prison staff gain knowledge from working alongside other agencies that they wouldn't otherwise get.
- It's important to us that they're not totally profit-driven, that they have the prisoners best interests at heart.
- There are clear opportunities for social enterprise activity in Category A and B. There is always a challenge to find interesting work with training opportunities for prison. "A social enterprise would be perfect".

### **Case Study - Award winning waste oil recycling project**

Work This Way is a relatively new social enterprise operating in HMP Ford. The organisation was set up by prison staff to provide work experience and training to prisoners. Despite operating as an external organisation (a charity and company limited by guarantee) and therefore being separate from the Prison Service, gaining agreement from the Prison Service was a lengthy process. Start up funding was provided by the LSC and the regional development agency and the organisation is currently aiming to expand its staffing and work delivery.

One of the initiatives set up by Work This Way is the 'Waste Oil Recycling Project in Prisons' (WORPP). The project takes used prison kitchen cooking oil and converts it into bio-fuel. The bio-fuel is then sold and the profits used to provide prisoners with high quality training and employment. The project has developed a new nationally accredited qualification which it delivers to prisoners. This is intended to cut re-offending rates, commonly associated with unemployment on release. So far two prisoners involved in the project have had offers of employment producing bio-fuel after being released from prison.

WORPP was set up in December 2008 but has already received a number of accolades. The project won the West Sussex Social Enterprise of the year

award from West Sussex Social Enterprise Network. It is also currently one of the 10 finalists in the UK for the Big Green Challenge national award.

WORPP has already developed links with the largest private bio-fuel equipment supplier in Europe, the University of Brighton and the County Council. These links are producing new ideas and routes to expansion, such as the idea of a research 'bio-lab' to work on new ideas in using waste from the production system in prisons, and selling the bio-fuels produced for use in community transport or local greening projects. The WORPP concept has been discussed at a Prison Service conference and there has already been interest in following this model in other prisons, based on HMP Ford's experience.

### 3.4.2. Probation perspective

The responses from probation services about what they value in the social enterprises that they work with highlighted the values that social enterprises bring to the service, and how these are appreciated by probation staff and offenders.

- Offenders are more likely to secure permanent employment through social enterprise relationships than through other third sector relationships.
- The added value of social enterprises and the input they can make into local communities has given some a high local profile, attracting favourable publicity.
- There is growing interest in using culturally and ethically appropriate business models to deliver services.
- Respondents within the Probation Service were highly satisfied with social enterprise provision for Community Payback purposes and typically saw their relationships becoming deeper and more extensive, involving larger numbers of offenders.
- Social enterprises offer the most rewarding work opportunities, and in particular better training opportunities, than average third sector providers of Community Payback projects.
- The culture and ethos of social enterprises is particularly liked by offenders. In particular, the fact that social enterprises can be offender led offers a unique set of benefits.
- Social enterprises were seen as more business-like and professional, which supports the current trend within the Probation Service to become more commercially orientated and entrepreneurial within the context of the transition to Trust status.
- Within the Probation Service growing involvement with the social enterprise sector is a trend supported by internal Best Value Reviews and central strategic directives, supporting a trend towards greater outsourcing and the establishment of a mixed economy, particularly for low to medium risk offenders.

- When the Police and Crime Reduction Bill becomes operational next April it will extend the statutory duties of Safer Communities and Crime and Disorder Reduction Partnerships to including re-offending. There will be a more formal role within this framework for building closer links with social enterprises and the wider third sector.
- Of the probation services that expressed an interest in the creation of ‘special purpose vehicles’, 42 per cent said that their interest in social enterprises had been inspired, in part, by the transition to Trust status, giving greater commercial freedom and flexibility, and the ability to try new, innovative ways of working.

### **3.5. Success factors**

From an analysis of the findings from prisons, probation services and social enterprises, we can identify the following success factors:

- Both prison and probation staff and the social enterprises value and appreciate the others’ contributions, skills and expertise
- There is a willingness to address the inevitable constraints of outside agencies working within prisons and probation services and identify practical solutions
- Open and transparent contracting and commissioning processes assist both the purchaser and the provider to have realistic expectations of what is expected
- Contracts should be for a minimum of three years
- Social enterprises need to work to enhance prisoners’ and probationers’ relationships with prison and probation officers, building trust between all parties
- Social enterprises recognise the need to educate and inform prison and probation staff about the way businesses in general, and social enterprises in particular, need to operate
- Social enterprises can produce hard evidence of additional social value and this should be required by prisons and probation services
- Links with the local community create many additional benefits for individuals and organisations
- Social enterprises can promote the values and ethics of their organisation to prisons and probation services and offenders
- Social enterprises can build valuable relationships in the community that assist with rehabilitation and provide a positive view of NOMS

### **3.6. Key Findings**

#### **3.6.1. Prison and Probation**

1. Overall, the research identifies a profound interest in social enterprise as an innovative way of delivering services that coincides with many government and NOMS specific policy drivers. National

trends provides a potential way forward for new service delivery options, given the growing financial constraints on traditional modes of service provision.

2. Both prisons and probation services have an interest in greater collaboration in future with the third sector, and social enterprise specifically, as a provider of high quality specialist services for offenders. However, cost is a major consideration and both services felt that scope for the directly paying for services will continue to diminish. Rather the onus will be on partnership working to access funds from external sources.
3. The Probation Service felt that transition to Trust status will give more flexibility and scope for innovation, including the scope to develop 'special purpose vehicles'.
4. Employment, Training and Education (ETE) is the pathway where current and future social enterprise activity is most likely to be found.
5. All respondents were working with some external agencies. Within the Probation Service, it was notable that relationships with the third sector had more prominence than those with either statutory or private sector organisations. The Prison Service was more likely to mention relationships with other statutory agencies.
6. The Probation Service has more extensive links with the third sector than the Prison Service and is working more extensively with social enterprise, particularly in relation to the provision of Community Payback. For example, with just two exceptions, all of the social enterprises engaging with the Probation Service for Community Payback purposes were local organisations. Knowledge and understanding of the benefits of social enterprise was greater within the Probation Service, where the development of social enterprise coincides with several important strategic drivers, particularly the drive towards greater community engagement.
7. There was a lack of knowledge on how to identify suitable local social enterprises for partnering opportunities in Community Payback initiatives.
8. Many respondents were thirsty for knowledge and genuinely frustrated at not knowing, in particular, how to translate ideas for 'special purpose vehicles' into reality. Some are experiencing difficulties accessing appropriate advice and accurate information about legal structures, governance arrangements and financial rules. There are difficulties in setting up independent legal entities within the services and also in having independent bank accounts. In some cases these are being subjected to Treasury rules.

9. It is difficult for many prison and probation staff to differentiate between social enterprises and the rest of the third sector. Social enterprises need to promote the specific and relevant additionality they bring.
10. It can be difficult to identify, and even harder to quantify, the actual level of social enterprise activity because so little is directly contracted by prisons or probation services and they consequently have no monitoring responsibility.
11. There is little evidence that prisons and probations services are contracting any of their core services to social enterprises. We identified one example in catering and two in visitor services (although also providing catering services).
12. In both prisons and probation services there were concerns about working with social enterprises that aim to employ offenders or ex-offenders to deliver services, or to participate as board members. This is especially the case in prisons where there are rules that dictate what prisoners can do and when ex-offenders can be admitted to the prison to deliver services. These rules or their interpretation seems to vary from prison to prison.
13. There appears to be a lack of enterprise culture in prison service management, which can effect approach to working with social enterprise service providers, as well as availability of relevant skills internally to set up special purpose vehicles.

### **3.6.2. Social enterprises**

1. Social enterprises have identified potential for future growth - either through working with further Prison or Probation Services, increasing the number of people they work with or delivering a wider range of services.
2. For social enterprises, the largest area of service provision is ETE and there are a wide range of activities being delivered within this pathway.
3. Community Payback is a major growth area for social enterprises.
4. Most work with social enterprises is funded through external third parties such as PCTs, LSCs and other sources external to NOMS.
5. There is a low level of competitively tendered contracts - only three social enterprises, of the 18 who responded to extended interview questions, had been involved in fully competitive tendering for the work they were doing in prison or probation services. Of the social enterprises that completed the on-line questionnaire, six social

enterprises had contracts directly with prisons and ten had contracts with probation services.

6. Some social enterprises saw it as a strength and a selling point that they can access external funding, but others find this kind of relationship to be insecure and a few thought it was an exploitative relationship.
7. Some measurement and evaluation of the services provided by social enterprises is taking place, but little of it is shared with the prisons or probation services. There is a lack of direct evaluation by NOMS of externally funded services. Some social enterprises are measuring the impact of their work, but others have no validated evidence of the value their work brings to commissioning organisations and partners.
8. Social enterprises struggle with some of the commissioning processes which can be very long and complex.
9. Commissioning and procurement processes do not recognise additional outcomes that social enterprise providers can offer. Those social enterprises offering work experience to prisoners or probationers said that the offenders valued the experience more highly and performed better because the host organisation was not part of 'the system'. Many claimed higher success rates.
10. Three years is a minimum realistic length for a contract.
11. The ability to manage risk is one of the key skills needed for social enterprises to work with prisons and probation services. The majority of social enterprises in our sample group regarded themselves as fully competent to work in this high risk environment, having staff with enhanced CRB checks, participating in key holder training and running secure data management systems. Several stated that they were confident about their competence to supervise prisoners while they were working.
12. Some social enterprises are already working with high risk offenders and others are keen to do so. Some organisations working with probation services stated that they only wanted to work with low risk offenders as they were keen to protect the interests of other vulnerable clients.
13. There is a low level of partnership working to develop and deliver services outside the core relationship of the prisons and probation services, the funder and the individual social enterprise.
14. There is little work taking place by social enterprises delivering core services for prisons or probation services.

15. Some social enterprises do not know about the Key Performance Indicators that prisons or probation services are required to meet by the delivery of these services.
16. Some social enterprises are experiencing procedural problems working in prisons. These relate to their access to prisoners to work in the social enterprise. They have no part in the selection of prisoners that will participate, they must wait until the prisoners have been assessed for risk, and this happens relatively late in the sentence resulting in a high turnover of personnel in the social enterprise.
17. Several respondents felt that prison and probation staff do not understand business practices or business culture, for example being confused about the difference between profit and turnover and not understanding the way that social enterprises trade (make profits and then re-invest the profits in the service).
18. There was concern that internal personnel setting up and managing social enterprises should be acquiring the relevant business skills to do so, in particular when there is a high proportion of prison or probation staff on the board of the social enterprise.
19. For 'special purpose vehicles' there are problems with the finance rules, constitutional issues and cultural change, from being a prison or probation activity to that of an independent trading business.

### **3.7. Implications**

#### **3.7.1. Prison and Probation**

Lack of information is inhibiting those who want to engage with social enterprises, and those who are not aware of what social enterprises are, from becoming better informed.

The lack of business skills within prison and probation staff is potentially resulting in them taking risks by setting up businesses that lack robust plans for financial viability.

Prison rules are creating financial and governance-related barriers to staff attempting to set up social enterprises. There is also a dependence on supportive individuals when setting up these initiatives, which means that they can be disrupted and delayed when there are personnel changes.

There is great potential for social enterprises to work in the delivery of Community Payback as long as they can meet the requirements of the Probation Service.

Because services delivered by social enterprises are often not directly contracted and paid for by prisons and probation services, the impact is not measured, evaluated, known about or valued at organisational or corporate level. In cases where other stakeholders or the social enterprise itself is measuring the impact of their work, this does not appear to be reaching the relevant prison or probation service.

The practice of non financial, semi-contractual relationships with social enterprises to provide specific services and outcomes for offender groups is acceptable, as long as there is clarity with regards to expected outcomes, monitoring and evaluation roles and finance, i.e. who pays for what and when.

Suspicion of social enterprises that employ prisoners, probationers and ex-offenders needs to be addressed if these social enterprises are to develop to their full potential.

The past decade has seen a steady diversion of money away from the criminal justice system towards specialist external agencies, particularly with regard to the key pathways of Accommodation, ETE and Alcohol and Drugs.

Partnerships and joined up working are paramount if outcomes for individuals, and indeed society, are to be improved.

However, the myriad of third party partnership, grant funding and contractual arrangements does make penetration difficult for social enterprises that are looking to become engaged. Community engagement for prisons is a continuum. According to our analysis, Category D open prisons want to become more embedded in the local community and typically have the most extensive community links, including many prisoners gaining work experience in the community through third sector organisations. At the other end of the spectrum, within Category A high security prisons, community engagement is limited. Within high security prisons, respondents stressed the specialist expertise of the third sector in general, and their role in maintaining family links as key benefits.

There is much opportunity within Category D prisons to work with local social enterprises to create work experience for prisoners prior to release. There could also be a potential link to social enterprise trading activity in the community after release.

Working with social enterprises on Community Payback creates a natural springboard for future activity, such as contracting with social enterprises for other services around the seven pathways, and raises understanding and awareness of the benefits of social enterprises as service providers.

Although the ETE Pathway and Community Payback appear to be the most fruitful sectors for growth in social enterprise provision, there are clearly

opportunities to deliver services across the six other pathways, although such opportunities are more limited owing to budget cuts. In addition, the relationship is likely to be one of referral from NOMS rather than a direct financial and contractual relationship for the delivery of services.

### **3.7.2. Social enterprises**

There is concern about the status and viability of what we have termed 'special purpose vehicles'. It is very early to say, as most of them have not been trading for any significant period, but five of our respondents could be described as 'special purpose vehicles' and respondents referred to another two organisations and the evaluations of their work. Of these initiatives, three have failed.

We found evidence both from prisons and probation services and social enterprises that there are difficulties associated with setting up a social enterprise from within a prison or probation service. Most significantly, there is no clear guidance from NOMS about what kind of legal structures and financial procedures will be allowed to operate. There is also concern that staff are not being equipped with appropriate business skills and that the entrepreneurship necessary to develop such proposals is seen as at odds with the necessarily risk averse culture of NOMS.

Senior prison and probation staff sitting on boards of social enterprises may, although not formally signed up as company directors, be regarded under company law as shadow directors and thus personally liable for any debts incurred. Aside from these concerns, in order to be categorised as a social enterprise, an organisation must be fully independent of the public sector and able to make business decisions based on the needs of the market place.

Social enterprises working successfully in prisons and probation services were finding certain aspects of the relationship to be frustrating. Many have built up excellent relationships with prison and probation colleagues, but there was a feeling that they could do more if they were trusted more. One respondent referred to prisoners working in a Visits Hall, and the risk of it being used to pass drugs between visitors and prisoners, which the respondent recognised as a real and serious risk. However, they felt that the social enterprise staff were sufficiently skilled and aware to manage the issue.

For social enterprises specialising in working with offenders and ex-offenders there appears to be little concern about the category of risk of offenders with whom they are working.

There is a lack of useful monitoring and evaluation of the services social enterprises are delivering. Prisons and probation services do not appear to be asking for evidence of the effectiveness of the services they receive from social enterprises. Monitoring and evaluation data is provided to the third

party funder and although it could be made available to the prison or probation service, we have no evidence that this is happening in any systematic way. Social enterprises also thought that the prisons and probation services did not understand, measure or value the added value of their work, for example offering counselling, advice or practical support such as financial management skills or accommodation as other services in their portfolio to which prisoners or probationers could be seamlessly referred. This would also increase the value of the service.

In some cases we found that smaller social enterprises were not fully aware of the requirements that prisons and probation services have to meet Key Performance Indicators (KPIs) and how the social enterprise's work would help to achieve these. There was evidence that social enterprises are not pro-actively collecting and validating evidence of the added value they offer to clients.

Social enterprises are not, with limited exceptions, being contracted to provide core services that prisons must purchase to keep running. The only instances of this happening that we identified were in relation to catering and in the context of visitor services. Otherwise, services such as maintenance, gardening, cleaning, etc., that are likely to be contracted to private sector providers, are not bought from social enterprises.

The NOMS commissioning processes are changing and this is presenting problems at present for some social enterprises. Some have worked on what they call 'protected tenders' and are concerned about what will happen when contracts are subject to open tender in the next round. There are indications that NOMS' procurement unit is causing delays when prisons want to contract with social enterprises but have to go through the procurement unit.

## **3.8. Recommendations**

### **3.8.1. NOMS - what should happen next?**

Recognition in policy and practice of the value that social enterprises contribute towards reducing re-offending targets and their capacity to provide additionality. Promotion of this to DOMs and to individual prisons and probation services.

An awareness-raising programme for relevant staff within the prisons and probation services about social enterprises, and signposting to sources of advice and support, including how to build successful relationships with social enterprise providers. Heads of Reducing Re-offending in Category D prisons were seen as particularly important roles.

Clarification of issues such as: How does the board of a social enterprise sit alongside the board of a Probation Service Trust? What are the social

enterprise board's legal liabilities? Would there be unfair advantage issues around contracting with a 'special purpose vehicle' under the competition and contestability guidelines? What are the alternative models that are possible within Trust status? Once clarified, these issues should be included in the awareness raising programme.

Making use of lessons learned from elsewhere in the public sector about the process of engaging with social enterprise as a delivery model. In particular, Probation Trusts can adopt approaches developed in local authorities and within the NHS.

Specific policy development within NOMS and DOMs to ensure that there is a consistent and transparent approach to commissioning services, in particular under Best Value.

Continuing to develop innovation in commissioning with other agencies in health, education, etc.

Development of impact measurement of the work undertaken by third sector providers in general, and social enterprises in particular. This could include requesting sight of monitoring and evaluation materials commissioned by third party funders.

Developing an understanding of the benefits of, and promoting, the tools that are available to measure the impact of social enterprises, including Social Accounting and Social Return on Investment. Investing in this process as it will help to demonstrate achievement towards key outcome targets.

An evaluation of the various models of 'special purpose vehicles', including failed examples, in order to identify critical success factors for the replication of this model.

Promoting the process of successful commissioning of services from existing social enterprises, including promoting to prisons and probation services the opportunities to replicate models of good practice.

Actively seeking to identify existing social enterprise service providers from which to procure services, and through which to access additional third party funding for projects, as a more sustainable option than starting social enterprises as 'special purpose vehicles'.

Reviewing issues relating to certain types and levels of procurement being routed through the central procurement unit, which is seen as a barrier to some innovative initiatives.

Building relationships with social enterprises through the Regional Social Enterprise Networks, to find out which providers are available in the regions and to open a discussion about the commissioning process.

Ensuring that information is provided on a regular basis to the Regional Social Enterprise Networks with regards to: all relevant consultations, partnership development opportunities, new service specifications, performance indicators and unit costs, up and coming tenders and supply chain opportunities.

Providing clearer guidance around CRB checks and security requirements for working in prisons.

Investigating opportunities for risk assessments that enable prisoners to participate in work experience to be carried out earlier in the sentence to enable prisoner participation in schemes helpful to their employability on release.

In line with the commitment to the Compact with the wider third sector, contracts should be issued for a minimum of three years.

### **3.8.2. Social enterprises - what should happen next?**

Social enterprises that already work with offenders and ex-offenders and want to develop new services should ensure that they are aware of gaps in NOMS provision, where they could offer high quality supported work places and build bridges to external employment.

Social enterprises should make contact with DOMs and ensure that they are known as organisations that currently deliver services or are keen to do so. They should keep informed about the commissioning and procurement timetables relating to work relevant to the services they provide.

Social enterprises should understand and be able to manage their unit costs so that they are ready for bidding to probation services under the new Best Value regime.

Social enterprises should produce evidence of the added value they could offer to probation services under Best Value, and promote additionality to prisons. In order to do this they should set up appropriate monitoring systems and measure their social impact through recognised tools such as Social Accounting and Social Return on Investment (SROI).

Social enterprises should ensure that they have institutional and cultural knowledge of NOMS, and, in particular, understand the requirements of NOMS' practices and systems, approach to risk and required behaviours.

Where social enterprises are already working in prisons they should investigate the possibility of obtaining key holder status to improve recognition of the service amongst service users and to reduce reliance on and resource requirements from prison staff.

Social enterprises delivering services to NOMS should identify options to franchise or otherwise roll out their delivery methods, using social enterprises in other regions as delivery agents, or social franchising models, in order to meet NOMS (especially prisons') requirements for continuity of services regardless of where prisoners are transferred or released. They should also identify methods of scaling up their own businesses, and seek to work in partnership with NOMS to do so.

### **3.8.3. Additional recommendations relating to Best Value**

Under Best Value, there are many lessons that have been learned in other public sector services that can be adopted by NOMS:

- Development of more outcome-based specifications with performance indicators
- Individual agencies (prison or probation) should identify whether they want to 'make or buy' a service - whether it is more appropriate to deliver it themselves or decide that it could be provided by an external provider
- Options appraisals for a 'make or buy' decision should include: What are the achievable outcomes for the funder and the customer? An assessment of the financial stability of a provider including opportunities for growth levels of capital acquisition, the size and scale of management capacity, existing levels of long term contracts held and the ability to measure social impact.
- Assess the benefits of commissioning smaller service packages and identify how smaller providers can offer added value
- Recognise additionality within the commissioning process
- Consider supply chain development, including social enterprises
- Recognise that open competition is not the only way to prove competitiveness. Models have been developed elsewhere based on quality and price tests, inviting providers on to a panel to test price and value for money and inviting providers to help work up a specification
- Actively engage with Local Strategic Partnerships and the process of working within Local Area Agreement frameworks, relating to local crime and disorder targets

### **3.8.4. Conclusion**

There is a substantial amount of work taking place in the social enterprise sector that is supporting NOMS' objectives, in particular reducing re-offending through providing education, training and employment support, and there are opportunities to expand this work further. There is some confusion within NOMS about the differences between social enterprises and other third sector organisations and what the motivation is for working with them. It is hoped that this report will help to clarify some of these issues

and to identify ways in which social enterprises can continue to build fruitful partnerships with prisons and probation services.

## **Part 4. Resources and reference**

### **4.1. National social enterprise organisations**

#### **Co-operativesUK**

[www.cooperatives-uk.coop](http://www.cooperatives-uk.coop)

Co-operativesUK is the apex organisation for all co-operatives in the country. It is a membership organisation comprising retail consumer co-operatives, associated federations, worker and other democratically owned businesses and co-operative development bodies. There are several specialist co-operative federations including the Confederation of Co-operative Housing, and the Association of British Credit Unions.

#### **Social Firms UK**

[www.socialfirms.co.uk](http://www.socialfirms.co.uk)

The national organisation undertakes promotional activity, research and lobbying, and has a resource centre of reports, books, videos and other downloads. Social Firms UK's regional networks of social firms provide locally oriented and practical assistance to existing and emerging social firms.

#### **The Development Trusts Association**

[www.dta.org.uk](http://www.dta.org.uk)

The Development Trusts Association is the national federation with a regional infrastructure. It encourages good practice and conducts research and promotes the work of development trusts, advocates on their behalf and contributes to public policy developments, briefing and lobbying papers.

#### **The Association of British Credit Unions**

[www.abcul.coop](http://www.abcul.coop)

ABCUL is the main trade association for credit unions. It promotes credit union activity and provides a range of support services to its members

#### **The Social Enterprise Coalition**

[www.socialenterprise.org.uk](http://www.socialenterprise.org.uk)

The Social Enterprise Coalition provides a co-ordinated voice for social enterprise and enables stakeholders to work together to develop the sector. It brings together all the apex social enterprise organisations in the UK.

#### **The Plunkett Foundation**

[www.plunkett.co.uk](http://www.plunkett.co.uk)

The Plunkett Foundation initiates and manages local and national development projects to support the growth of rural community-owned services and other forms of social enterprise. It provides specialist consultancy and training services to producer marketing groups and human resource development services.

## **The School for Social Entrepreneurs**

[www.sse.org.uk](http://www.sse.org.uk)

The School for Social Entrepreneurs provides training and opportunities to enable people to

use their creative and entrepreneurial abilities more fully for social benefit.

The school now has

local coordinators across the UK.

## **4.2. Regional Social Enterprise Networks**

### **Social Enterprise North West**

<http://www.senw.org.uk/>

### **North East Social Enterprise Partnership**

<http://www.nesep.co.uk/>

### **Social Enterprise Yorkshire and Humber**

<http://www.seyh.org.uk/>

### **Social Enterprise East Midlands**

<http://www.seem.uk.net/>

### **Social Enterprise West Midlands**

<http://www.socialenterprisewm.org.uk/>

### **RISE - the voice for South West social enterprise**

<http://www.rise-sw.co.uk/>

### **SE<sup>2</sup> partnership - regional social enterprise network for the South East**

<http://www.se2partnership.co.uk/>

### **Social Enterprise London**

<http://www.sel.org.uk>

### **Social Enterprise East of England**

<http://www.see.co.uk/>

### **4.3. Social enterprises working with offenders and ex offenders that were interviewed for this research:**

The Bridge Programme

CHASE

The Clink Restaurant at HMP High Down (managed by Eco-Actif)

Create CIC

Eden Project

Ex-Cell

The Ideas Mine

Leeds City Credit Union

Millrace IT

pact lunch (run by pact)

Pentreath Ltd

Prosperity Recycling

Second Avenue (an initiative led by West-Mercia Probation)

SOFA

Sunlight Enterprises CIC

Torbay Enterprise Project

Turning Point

Work This Way

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#### 4.5. Common abbreviations used in this report

CDRP	Crime and Disorder Reduction Partnership
CIC	Community Interest Company
CLG	(Department for) Communities and Local Government
CRB	Criminal Records Bureau
CVS	Council for Voluntary Services
DAAT	Drug and Alcohol Action Team
DIP	Drug Intervention Programme
DOM	Director of Offender Management
ESF	European Social Fund
ETE	Education Training and Employment
HOLS	Head of Learning and Skills
HORR	Head of Reducing Re-offending
ILM	Intermediate Labour Market
KPI	Key Performance Indicators
LINK	Local Involvement Networks
LSC	Learning and Skills Council
MoJ	Ministry of Justice
NCVO	National Council for Voluntary Organisations
NOMS	National Offender Management Service
NVQ	National Vocational Qualification
ODPM	Office of the Deputy Prime Minister (now CLG)
PCT	Primary Care Trust
SEC	Social Enterprise Coalition
SLA	Service Level Agreement
SROI	Social Return on Investment