

# **BME POLICY MATTERS**

policy issues that matter for London's  
BME third sector

## **BME THIRD SECTOR PROVIDERS & THE CRIMINAL JUSTICE SYSTEM**

### **1. About this briefing**

In late 2006 around twenty-five participants attended an event at the Probation Service in London. The aim of the event was to inform and consult with black and minority ethnic (BME) providers of prison and probation services about the shift from grant funding to commissioning. The BME sectors major fear is that opportunities will be dominated by larger and financially stronger organisations, undermining and excluding the small scale yet extremely valuable and innovative work of BME groups. The BME sector hopes that the commissioning process will be an effective gateway to greater opportunities and independence and not another institutional mechanism preventing their participation.

This briefing addresses the issue of how best to tackle the growing and shocking statistics of BME offenders, and explains why the BME third sector must be an essential part of the solution and what needs to now be done to ensure that they are.

This briefing targeted at all stakeholders who seek to address the over representation of BME communities within the criminal justice system including the Ministry of Justice and its Departmental Division - National Offender Management Service (NOMS), relevant mainstream third sector infrastructure and frontline organisations and relevant BME third sector infrastructure and frontline organisations.

### **2. Why is it important for BME communities**

Despite the increase in spending by central government on prison and probation services since 1997, a report published by the Social Market Foundation (1) states that currently 60% of those who have been through the system re-offend within 2 years. In 2003 the Carter Review (2) conducted an in-depth review of both the prison and probation services and concluded that the current system was failing and needed a new approach in tackling the challenges faced by correctional services. Government statistics show that BME people are grossly over-represented in the criminal justice system.

According to the Home Office annual report on race and crime, 2005 (3) BME groups are over-represented at each stage within the criminal justice system, from stop and search, arrests, cautions and youth offending through to percentage of the prison population. Specifically:

- In 2005 BME groups accounted for 24% of the male prison population and 28% of the female prison population (figures include foreign nationals).

Equally concerning is the report on young black people published by the House of Commons Home Affairs Committee 2006-7, (4) which states:

- In 2004/5, 8.1% of black people and 5.1% of Asian people under 18 were remanded in custody compared to 4.4% of white people of the same age group.
- Between 1997 and 2003 there was an overall increase in the male prison population of 9%. During that same time period, the figure rose to 21.5% for British male black prisoners. This is compared to a rise of 5% for British white male prisoners.

- Young black people in London make up 15% of the population under the age of 18 but represent 37% of those stopped and searched, 31% of those accused of committing a crime and 43% given custodial sentences.

We strongly believe that organisations which exist to provide quality support to BME offenders and families should be resourced to help meet the specific needs of BME people and reduce the numbers in the system. Typically we have found that the majority of BME groups are characterised by short-term low value funding which ensures they remain susceptible to financial instability. To date there has been a mixture of state, private and voluntary sector intervention within probation services. Some small voluntary and community groups have been able to deliver service level agreements in both prison and probation services in areas such as translation and interpretation, resettlement, diversity cultural awareness and self-empowerment.

With the introduction of competitive tendering within the probation service as a means to improve standards, the fragile existence of the BME sector is under serious threat unless the commissioning process seeks to fully engage and be inclusive for BME groups. BTEG has found it impossible to obtain figures on the number of BME third sector providers currently contracted to provide services.

### **3. National Offender Management Service (NOMS)**

NOMS was created in 2004 with the aim of reducing re-offending and protecting the public. Previously the National Probation Service provided all probation services but this statutory right was transferred to NOMS with the responsibility of establishing commissioning as a means to drive up standards within the probation services. In 2007 the Offender Management Act was passed which sets out new arrangements for the provision of probation services. Probation Boards no longer have a statutory duty placed on them to deliver probation services. This duty now rests with the Ministry of Justice which can contract providers to deliver services. This means that the private and third sectors can now deliver public services alongside the public sector.

#### *NOMS Equality Impact Assessment*

The NOMS Equality Impact Assessment (EIA) 2007/8 (5) states that the intention of the policy is to ensure that prison and probation services meet the needs of all offenders from all diverse backgrounds. Commissioners therefore, will need to identify BME providers who can meet diverse needs. The EIA also states that there is no clear path as to how BME led groups will be able to participate in commissioning even though barriers have been recognised by NOMS and acknowledges that the commissioning framework does not outline a model for participation. Unless there is a framework for ensuring BME organisations will benefit from commissioning opportunities it is likely that commissioning programmes will be developed for the sector's participation rather than being led by the sector.

Within the EIA is a recommendation that the NOMS grant programme should be continued as a means to ensuring small BME led organisations remain as providers but to date there has been no further mention from NOMS on the grant scheme after the 2007/08 action plan. Without a grant programme it is hard to see how BME groups will continue to have a role as providers.

### **4. Barriers to third sector commissioning**

In the London Regional Commissioning Plan 2007-2008 (6) it states that most of the providers on the reducing re-offending contact list of the third sector are small and would struggle in a contestable arena without initial support. The plan recognized that there are also some large third and private sector organisations that could dominate contestable work, potentially squeezing out small agencies, unless the process is properly managed.

In developing its commissioning plan, NOMS has rightly identified key barriers for the third sector in accessing contract opportunities. They included:

- Difficulty in finding out about contract opportunities and who to approach
- Commissioning trend towards large scale contracts at a national and regional level

- Complex and costly pre-qualification and tendering procedures with unrealistic time scales
- Lack of level playing field throughout the procurement process, from the identification of need through to the acquisition of goods or services.

The BME sector is diverse and uniquely placed to provide culturally tailored services to meet the needs of BME offenders but they require targeted help to overcome these barriers and others such as institutional racism.

## **5. Mainstream and Infrastructure Support for BME VCS Providers**

### **5.1 Clinks**

The infrastructure organisation Clinks has been in operation for a decade. It was set up to Strengthen and develop partnerships between the third sector and the prison and probation services in England and Wales. It has the unique position of being a key national infrastructure organisation that supports the development of organisations delivering services within the criminal justice system.

Through specific funding, Clinks are also charged with providing specific support services to their BME members to help build capacity and strengthen strategic voice. In September 2007, Clinks held a seminar called *'strengthening the minority ethnic voluntary sector'* to update its BME members on the current NOMS policy direction and to consult with providers on ways in which Clinks could effectively support its BME members. Surprisingly there was a lower turnout than expected with around 15 BME groups from across the country in attendance. Importantly they called on Clinks to help strengthen the voice of BME providers, influence policy and provide capacity building support. In response Clinks has recently launched a campaign 'Race for Justice' to highlight the issues of the over representation of BME offenders and the important role of BME providers working within the criminal justice field.

Clinks along with Action for Prisoners Families and the Development Trust Association have recently been awarded £1.8 million of the Infrastructure Grant from NOMS over the next 3 years to advise and support frontline organisations already working or wanting to work to help reduce adult re-offending. Whilst the application from Clinks was supported by the BME infrastructure organisation – The National Body of Black Prisoner Support Groups, regrettably no national BME infrastructure organisation applied for the grant so have not received any of this vital money from NOMS.

Clinks do have an important role to play in ensuring that the voice of BME providers is represented within policy making circles but it does have a low number of BME groups. BTEG wants to see a robust strategy put in place for strengthening BME providers. BTEG believe effective partnerships need to be developed with credible BME infrastructure organisations as a matter of urgency.

### **5.2 The National Body of Black Prisoner Support Groups (NBBPSG)**

NBBPSG was established in 1998 and have existed to strengthen the role of providers working BME offenders and their families. In 2005 they received two years of funding from Capacitybuilders to provide infrastructure support covering policy development and service provision. The organisation strives to establish itself as a strategic partner for the sector, allowing for greater opportunities for BME groups to strengthen their capacity and role by providing a hub to gain access to policy development and training. These resources also allow for the development of partnerships. For example, NBBPSG set up a BME strategy group with other partners. Yet sustainable funding is far from the reality for BME groups such as these that have a vital role in representing the voice of BME offenders at a national level.

## **6. Civic Engagement and Participation**

Local Area Agreements (LAAs) will play an important role in the commissioning of services at a local level. Included in the national indicators are public service agreements on reducing

re-offending for both adult and young offenders for 2008 to 2011. The new LAA's for 2008 require local authorities to be far more effective in how they engage with local communities and provide avenues for improved access to local policy and decision making processes. Local Strategic Partnerships (LSPs) will be able to design their LAA as they see fit. BTEG research found that only a third of LSP boards have a BME member. The lack of monitoring by LSPs on the ethnic make up of individuals on the partnership makes it even more difficult to determine the actual level of participation or to determine effective strategies for increasing the numbers of BME representatives.

## **7. Recommendations**

### **The Ministry of Justice and other relevant public sector departments**

- If we are to achieve social justice then it is crucial that opportunities present themselves in ways that demonstrate a robust commitment to tackling the disturbing statistics relating to BME offenders. NOMS should find ways of ensuring that small providers have a role to play in delivering bespoke services. A grants programme for small organisations would help to ensure that there is collaboration and joined up thinking between BME providers in tackling the pathways identified within the NOMS strategy.
- The proposed MoJ Third Sector Strategy should include a BME strategy which supports the EIA in ensuring that BME providers are able to strengthen their position within the 4 drivers identified i.e. enabling voice and campaigning, strengthening communities, transforming public services and encouraging social enterprise.
- Commissioners should seek to involve BME groups in the designing of services. This would help the Government to achieve its national targets on reducing re-offending, especially in BME communities.
- LSPs should actively seek to increase the participation of BME groups working with BME offenders. They should use various strategies for consulting including greater involvement and resourcing of BME infrastructure bodies to hold consultation events and resourcing of frontline groups to consult with users of specific services.
- In meeting the diversity and equality milestones for contracts and sub contracts NOMS should ensure that adequate and robust targets and periodically reviewed to ensure they are met.

### **Third Sector Mainstream Infrastructure Organisations**

- Mainstream infrastructure bodies which support BME groups working within the criminal justice system should ensure that they work closely with BME partners in tackling the over representation of BME people in the system. Joint bids for public sector contracts is an example of meaningful partnership working, ensuring that BME providers are adequately resourced to deliver.
- Clinks could seek to work closely with a range of BME infrastructure organisations such as BTEG and Race on The Agenda because these agencies have a strong track record of providing a voice for the BME sector.

### **BME Infrastructure and Frontline BME Organisations**

- BME infrastructure and frontline organisations operating in this sector need to adopt a more 'critical friend' role and be better at lobbying public bodies. The BME sector must be prepared to challenge public institutions on how they are meeting BME equality targets.

### **Notes**

1. *Returning to its roots? A new role for the Third Sector in Probation; Social Market Foundation, Sept 2006*
2. *Managing Offenders, Reducing Crime, Patrick Carter's Report, Dec 2003*
3. *Race and the Criminal Justice System; An overview to the complete statistics 2004-2005, Nov 2006*
4. *Young Black People and the Criminal Justice System; House of Commons Home Affairs Committee, Second Report of Session 2007-07, June 2007*
5. *NOMS Equality Impact Assessment, 2008*
6. *London Regional Commissioning Plan 2007-2008, National Offender Management Service, Nov 2007*

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