

**Criminal
Justice
Alliance**



Prospects for a Desistance Agenda

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About the Criminal Justice Alliance

The Criminal Justice Alliance is a coalition of 74 organisations-including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions-involved in policy and practice across the criminal justice system.

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Full report

The full report of this research is available for download at www.criminaljusticealliance.org

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Executive summary

Drawing on interviews with over twenty policymakers, and analysis of official publications, this report considers where desistance stands at present, the barriers that may limit its further progress and the opportunities and risks afforded by current developments.

The findings suggest that desistance has made its way directly and indirectly into UK policy and practice and it would appear that its influence is growing.

What is Desistance?

It is a process: "The long-term abstinence from criminal behaviour among those for whom offending had become a pattern of behaviour" (McNeill et al, 2012: 3).

The research found that desistance theories' greatest strength was seen to be their common sense appeal. Developing relationships between practitioners and offenders and involving offenders in the design of their rehabilitative plans seems entirely logical. Freeing up discretion and reducing bureaucracy was also attractive.

Has desistance been incorporated into policy and practice?

Government policy documents suggest an increasing orientation around a 'desistance perspective'

'Desistance' is not referenced explicitly in ministerial speeches

The Offender Engagement Programme (OEP), including the Skills for Effective Engagement and Development (SEED) model, is a key development based on desistance principles

A desistance agenda tallies with the Ministry of Justice's stated desire to reduce reoffending and the promotion of 'innovation' in rehabilitation. Desistance is in one sense a 'step backwards' – to key principles that respondents considered to have been forgotten over recent decades. Equally, it is a novel 'step forwards' – a break with the recent past.

Looking Forwards: Opportunities

Meshes with reducing reoffending objective

Austerity – cost-effective?

Responds to the call for innovation

Supports the development of practitioner-offender relationships

An appealing agenda – it 'makes sense'

Novelty – a welcome break from recent decades

Less positively, risk and public protection remain key principles and may conflict with a desistance agenda. Most obviously, a risk paradigm may struggle to accommodate the 'false starts' and relapses characteristic of the desistance process.

Further, politicians continued 'fetish for imprisonment' poses a challenge to a desistance agenda. Robust evidence of the effectiveness of desistance-oriented practice would reassure policymakers, as would proven cost-effectiveness. Finally, desistance risks becoming a non-specific, catch-all term.

Looking Forwards: Barriers and Risks

Risk and public protection

Target driven culture

Austerity

Research and evidence - is there enough?

Failure to look beyond prison and probation

Co-option and catch-all

This report makes the following recommendations:

- Promote and utilise offender strengths, both through policy and practice
- Train staff to focus on developing appropriate relationships; avoid attempts to wrap desistance into a neat package or programme
- Involve and support families in the desistance process
- Develop policies – and a political narrative – that recognise desistance is a continuous process; and that the offender is at the centre of this journey.

Introduction

Over the last few years the term desistance has gained increasing prominence. This research sought to determine the extent to which desistance has been incorporated into criminal justice policy and practice. The research also considers the opportunities posed for a desistance agenda by the current climate and also the risks that must be addressed.

With the Transforming Rehabilitation reforms beginning to take effect, it is crucial both to take stock and to look to the future. This report seeks to contribute to this task.

Methodology

Over 20 interviews were conducted with civil servants, politicians, academics and senior public and voluntary sector representatives from across the country. These interviews were semi-structured and lasted 30-90 minutes.

In addition government policy documents published from 2010-2014 were analysed. This included Ministry of Justice (MoJ), National Offender Management Services (NOMS), Home Office and Cabinet Office documents and ministerial speeches.

Background to Desistance

Desistance theories seek to understand and explain not only how and why people stop offending, but also how they maintain their crime-free behaviour. Initially developed in the United States in the 1930s, desistance has risen to prominence in the United Kingdom from the turn of the century.

The desistance paradigm encompasses multiple theories (Maruna, 2001: 19-35), with most involving the following elements:

- A focus on the process of change through relationships rather than simple modes of intervention or programmes (which may form part of this journey) (Ward and Maruna, 2007).
- The development and maintenance not just of motivation but also of hope become key tasks for practitioners and offenders. It is as much about developing strengths as addressing weaknesses (Maruna and LeBel, 2009).
- The practitioner is seen as an advocate providing “a conduit to social capital as well as a ‘treatment provider’ building human capital” (Farrall, 2004). Therefore, practitioners should collaborate with offenders, helping them to develop personal agency and access appropriate services (McNeill and Weaver, 2010).
- One-size-fits-all interventions are unlikely to be successful; rather a desistance perspective promotes a focus on individual holistic approaches (Farrall and Calverley, 2006).
- Desistance is a complex process that is likely to involve several relapses.

Has desistance been incorporated into policy and practice?

a) Policy

MoJ policy documents have tended to focus on addressing offender needs, rather than supporting offender strengths. However, the ‘Breaking the Cycle’ green paper (Ministry of Justice, 2010), released at the beginning of the Coalition’s term, tacitly acknowledged certain elements of a desistance perspective. For example: ‘the offender’s motivation to change is critical and lapses are quite typical as the offender begins to change their life and starts to desist from offending’ This paper recognised the need for a holistic approach to rehabilitation, tackling the needs of an offender through multiple agencies and developing an individualised approach:

“Managing offenders means striking the right balance between controlling them to protect communities and requiring them to take actions needed to change their criminal lifestyle.”

Recent publications have made clear that NOMS wish to commission services that:

“Motivate offenders to change, create environments and build relationships which enable and sustain this change, provide evidence based services which support desistance and effective rehabilitation and build the skills and competencies needed to live crime free lives.” (NOMS, 2012: 6)

The central role of the offender manager, and the uneven path towards desistance, is explicitly recognised:

“The offender’s experience should be held together by a strong and trusting relationship with an offender/case manager who communicates effectively with others delivering specific services.”

b) Rhetoric

Both the Justice Secretary, Chris Grayling, and his predecessor Kenneth Clarke omitted to explicitly reference desistance in public speeches. While they have expressed support for a holistic approach with greater respect for front line practitioners’ discretion, there was considered to be an almost:

“Apathetic feeling towards how reduced reoffending is achieved, so long as it is achieved.”¹

The Prime Minister, David Cameron, has spoken on several occasions about criminal justice issues, arguing that cutting bureaucracy and ‘unleashing innovation’ would support offender rehabilitation (Prime Minister’s Office, 2012).

c) Pilots and programmes

The most notable development at a national level has been the Offender Engagement Programme (OEP), which set out to investigate and develop the effectiveness of one-to-one supervision and draws on desistance literature. Skills for Effective Engagement and Development (SEED), one of the key elements of the programme, has proven to be greatly appreciated by staff (Sorsby et al, 2013).

The growth of service user engagement, with the MoJ funding organisations such as User Voice to establish councils in prisons and probation, can be seen as a further example of a national programme that seeks to promote desistance.

¹Unless otherwise stated, all quotes are taken from research interviews.

Looking Forwards: Opportunities

a) Reducing reoffending

Reducing reoffending is the government's central stated goal. Most of the respondents believed that desistance was complementary to this agenda:

"At the end of the day it's what it's all about reducing reoffending, and desistance helps that."

However, some respondents considered that the approaches may be more dissonant:

"The difference between a reducing reoffending approach and a desistance approach is that with the reducing reoffending approach you see the practitioners as the person who brings about change whereas with a desistance approach you see the offender as the person who brings about change."

b) Austerity

Desistance can appear to be a relatively cheap option, especially when compared to the cost of highly bureaucratic, target driven performance programmes. Some respondents felt that as research suggests that the desistance process is often influenced by factors outside of the direct control of criminal justice practitioners, it was "something that was happening for free as it were."

c) Innovation

One of the main justifications for the Transforming Rehabilitation agenda has been the potential it has to open up innovation in the field of rehabilitation (Ministry of Justice, 2013). Many respondents considered that desistance could serve as a means by which innovative approaches could be encouraged and developed.

Some respondents were concerned that innovation will purely be judged by reoffending data. A failure to consider the processes and mechanisms at work, and the likelihood that successes will be seen in relatively small, long-term reductions, rather than instantaneous drops in reoffending, could result in efforts to innovate being wasted.

d) Developing relationships

Ensuring that staff have the relevant capabilities

for building relationships and supporting offenders is a vital goal. Programmes such as SEED will be of significant importance, and responsible Community Rehabilitation Companies (CRCs) will be keen to consider this issue:

"It's going to have to be about the quality of the relationship and the 'offer'. And I think for me it's about retraining the attitude of our staff as much as the offender."

e) Novelty

In one sense desistance is a 'step back'. It speaks to what longstanding practitioners have always sought to do:

"As a theory and a concept it has the potential to say to people this actually is what you are doing anyway, this legitimises all of the constructive positive things that you instinctively will do."

However, desistance was also perceived as a break with failed efforts of recent decades. It sits well with current desires to encourage "something different, not more of the same."

It isn't just a new word for an old idea, it is actually a new way of framing the things that people think they know about what might lead to reduced reoffending.

It is also an optimistic agenda:

"It starts from a premise that most people will probably change eventually."

f) Public acceptance

The desistance literature acknowledges that leaving behind a life of crime is a process that requires time and patience, and which may involve relapses. Respondents felt that the public were 'on board' with this perspective:

"I think the public are there. You would have a job persuading the public that anybody is capable of rehabilitation so saying to them it's not like flicking a switch I don't that would be news to anybody in the public."

The concept of desistance was considered to be a useful tool for politicians seeking to openly recognise this processual view of rehabilitation.

Looking Forwards: Barriers and Risks

a) Risk and public protection

Public protection remains central to criminal justice policy. This climate has made practitioners hesitant to take the risks often inherent in a desistance orientated approach, particularly with offenders considered to pose the highest risk of harm:

"Pretty quickly [desistance] comes into conflict with a risk focused, or precautionary, or defensive practice...where practitioners have perfectly legitimate anxieties about their responsibilities for risk management."

However, it may be that a more constructive relationship between desistance and risk can be developed:

"[You can't manage risk without supporting change] as all you will succeed in doing is creating an artificial environment within which you can be optimistic that you have put in enough restrictions or sanctions in place so that this person is going to abstain from that behaviour while they are in place."²

b) Targets

"[There has been] a total appetite for programmes, performance indicators and reaching targets."

The significant funding of probation by the Labour government from 1997 onwards came "with strings attached", with probation officers arguably being "measured by how many boxes they ticked rather than whether they were any good at actually engaging people." This poses a danger for desistance-oriented practice:

"The danger of having a whole generation or two of staff who have learned how to do process well is that what we have seen occasionally is people have turned desistance into a process with a check list."

c) A 'fetish for imprisonment' and political restrictions

The political "fetish for imprisonment" was considered to be a substantial barrier to the

²See Ward and Maruna (2007).

flourishing of a desistance agenda:

"[Prisons] aren't sites of maturation, they are not places of strong social ties, and certainly not ideal for positive identity transformation."

Politicians felt uncomfortable in publicly recognising the relapses and temporary failures inherent in the desistance process:

"The...desistance literature...says this is a long term process that will have lots of false starts and stops and will unfold over time... and that's hard, especially and understandably if individuals are still committing burglaries."

Politicians did not believe that the public would accept policies promoting the positive strengths of offenders, or 'service users':

"It may not be politically acceptable. That aspect of desistance, taking account of what service users may want, may be correct but it may be politically impossible."

However, some respondents thought there was the opportunity to overcome this through human interest stories and "redemptive narratives."

d) Austerity

Austerity may negatively impact on a desistance agenda in various ways. The cuts imposed by the government, amid a climate of 'less eligibility' (Easton, 2011), has negatively affected the support available to offenders both within the prison estate and the community. The lack of job opportunities is also a major concern.

Implementing a desistance agenda may involve substantial short-term costs. It requires investment in staff relationships, supporting families and individualising approaches. One politician respondent considered that the provision of the staff costs, likely to result from a desistance approach, is simply not feasible.

e) Research and evidence

Politicians and NOMS/MoJ officials felt that despite the growing body of desistance research, the available evidence is still not sufficiently robust. In-depth qualitative studies were treated

with a degree of scepticism, in contrast to large scale quantitative research:

“Even with [Sir Anthony] Bottoms’ stuff, it’s fairly small scale actually...It’s interesting, it’s good, but it’s not as heavyweight as you might like, ideally.”

However, some civil servants are becoming more receptive to research that considers mechanisms and processes, rather than only outcomes:

“[Quantitative research] is levels and levels of aggregation, it gets so far away from what I do with this client that is in front of me. I think qualitative research speaks more to practitioners.”

The key message from politicians was:

“You can’t have certainty [but] it needs to be good enough to give practitioners confidence and people who are spending money confidence that it is worth continuing.”

f) Practical implementation: operationalising desistance

“[Desistance] has been too much of a headline without people understanding it and thinking through the implications.”

Respondents responsible for developing and commissioning services were frustrated with efforts to translate desistance into investment decisions. It was difficult “for [researchers] to give tangible, operational things that we can do”. Managers were considered to dislike the inability of desistance research to result in a straightforward ‘manual’ or programme, in contrast to the previous What Works agenda.

The resultant potential for lack of economies of scale under such a model will pose substantial issues for Community Rehabilitation Companies

“When you are designing a system, especially when you have to do it for a lot less money and for a lot more people there is pressure to design something that is organisationally convenient.”

g) Beyond prison and probation

Many respondents worried that practitioners and policymakers saw desistance as operating purely within the parameters of prison and probation.

The engagement of non-criminal justice agencies, however, is crucial:

“For desistance to work at all effectively... it has to work with a whole host of organisations that have a degree of buy-in.”

The judiciary, including magistrates, were considered to present a challenge. More could be done to explain and promote a desistance paradigm perspective to them.

Further, prisoners’ families are currently being largely ignored by criminal justice organisations:

“The social structures that give you all those things, a place in the world that reaches out to you. Without this I think it is less likely [for an ex-prisoner] to stay out of trouble. I think [this is] not sufficiently part of the agenda.”

h) Co-option and catch all

“There’s a danger that it is kind of a buzz word that people say they kind of are doing desistance and you are like well, not sure it’s quite as easy as that.”

“[It risks] being the answer to everything.”

Throughout the interviews, concerns that desistance may be co-opted, or simply used as a meaningless ‘catch all’ term were reinforced. Some respondents admitted to not fully understanding the parameters of desistance:

“What I’m not very clear about is what isn’t desistance and aspects of what happens in prisons that isn’t desistance.”

There is a danger of ‘cherry picking’, where aspects of desistance convenient to organisational agendas are promoted, while more challenging aspects are ignored.

i) Taking responsibility for the desistance agenda

Ongoing organisational reforms may interfere with efforts to drive the desistance agenda forwards. The influence of NOMS and the MoJ over CRCs is uncertain. However, respondents considered that the new National Probation Service, for which NOMS/MoJ retain responsibility,

will be “heavily influenced by desistance literature”. They will continue to disseminate best practice guidance, including desistance research, to organisations. HM Inspectorate of Probation and the newly established Probation Institute will also play an important role, promoting desistance-based practice.

Encouragingly, representatives of potential key providers of services under the CRC model stressed how desistance will feature heavily in their model of change. However, they also noted the likely tension for them in practice of choosing between “what really works and something that’s really cheap.”

At a policy level, many respondents hope that government ministers will promote a ‘desistance narrative’, talking openly about the strengths and potential of offenders. This might serve to contribute to a more progressive public debate around rehabilitation.

Conclusion

There are sweeping changes taking place within criminal justice, dramatically altering the rehabilitation landscape. This will present challenges for the desistance agenda, along with opportunities. This report highlights barriers to the continued development of a desistance agenda, but also importantly causes for cautious optimism.

The report therefore makes the following recommendations:

- Promote and utilise offender strengths, both through policy and practice
- Train staff to focus on developing appropriate relationships; avoid attempts to wrap desistance into a neat package or programme
- Involve and support families in the desistance process
- Develop policies – and a political narrative – that recognise desistance is a continuous process; and that the offender is at the centre of this journey.

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