**A tale of two conferences; Centre for Crime and Justice Studies conference ‘Criminal Justice since 2015: What happened? What happens next?’ And ‘Charity Reform: Implementing Guidance on fundraising and governance’**

The Resilience Research team have been out and about this week. Dr Kelly Prince headed south to London to attend the Centre for Crime and Justice Studies conference *Criminal Justice since 2015: What happened? What happens next?* As she comments: I was excited by the prospect of this conference and was not disappointed. CCJS are adept at engaging high profile and highly relevant speakers. Professor Rod Morgan, the Northern Ireland Justice Minister Claire Sugden, Kenny MacAskill, Scottish Justice Secretary 2007-2014, and Dusty Kennedy, Director of the Youth Justice Board Cymru, were among this years line-up.

Presentations from the four nations of the UK brought home to me the real differences in the devolved criminal justice systems, and while every speaker conceded that there was much work to still to do, overall it seemed the devolved nations were blazing a trail that left Westminster somewhat behind. Headlines from the day include the fact that Northern Ireland’s probation staff are all still social work trained. The departure from this foundation of professional training, and its impact on Probation officer culture is in England and Wales, emphasise the gaps in the service among the different nations of the UK. This is likely to be exacerbated in the aftermath of Transforming Rehabilitation which has taken root in England and Wales. Specifically, concerns about the de-professionalisation of probation are not assuaged by the flight of experienced, trained probation officers or lack of data about the hiring practices of the Community Rehabilitation Companies. Against this tide, the Probation Institute has been founded to offer a Professional Development Framework for all sectors including the voluntary sector working with offenders (paid staff, voluntary organizations, volunteers). You can check out the credentials that you can obtain at: http://probation-institute.org/membership/

The transfer of statutory responsibility for over one half of all individuals serving a custodial sentence to the CRCs underlines the urgency of providing an adequate, professional resettlement and probation service. Professor Rod Morgan highlighted, among other things, the “breathtaking criticism” of through-the-gate services in England and Wales made in the joint report of the Prison and Probation Inspectorates (see our blog for further analysis). He argued this was all the more pertinent when set in the context of a record high prison population and a service under deep stress, illustrated tragically by events in Pentonville this week. Professor Morgan also highlighted the ever increasing censorship of organisations that contract with the state, stating that the non-criticism clauses contained in the contracts was something which we should be particularly concerned about (see our blog from July on censorship).

There was, however, much praise for the work done in youth justice throughout the country; there has been a reduction in youth custody of 80-85%. Dusty Kennedy suggests this has been achieved in Wales through a whole life approach to young people and a systemic approach which places at its centre a rights-based approach informed by the United Nations Convention on the Rights of the Child. Kennedy said that multi-agency Resettlement and Integration Partnerships were developing holistic and effective approaches to young people leaving custody. David Strang, Chief Inspector of Prison in Scotland noted that, for both adults and young people, access to external services was crucial, particularly in relation to accommodation.

Neil Carey from the National Audit Office reminded us the Ministry of Justice has to make significant budget cuts, not least of which is a 50% cut to its administration budget, the strategy for which is as yet unknown. Criminal justice in the UK is experiencing unprecedented levels of fiscal pressure, making the coming 12 months as uncertain as the last. To his stark point about the cold economics underlying current policies can be added that the cost of austerity is being paid in lives and wellbeing, and not just money.

Mary Corcoran attended the conference on ‘**Charity Reform: Implementing Guidance on fundraising and governance’** in Manchester on October 19 2016. Questions of modernising governing structures of the charity sector have followed well-publicised media stories about mismanagement in fundraising, alongside spectacular charitable failures, of which Kids Company was the most prominent. Predictably, the facts behind the media versions are more nuanced and complex, but a lasting effect is the way in which the ensuing controversy has shaken the sector’s confidence and assurance of public support.

Inevitably, these events galvanised government ‘to do something and be seen to do something’. This resulted in several initiatives which varied in their appropriateness and effectiveness. The lowest point of political response was the egregious ‘anti-advocacy’ clause which purported to restrict charities using public funds for advocacy. This was withdrawn in April, 2016 following responses from charitable, academic and policy sectors (see May 2016 blog). However, it must be noted that efforts to ‘regulate’ the sector also reflect a growing will to rein it in by a variety of means. One obvious marker has been the plethora of parliamentary acts that have been aimed at ‘reforming’ the sector in recent decades. Consider that for hundreds of years the principal legislation governing governing charity was the Elizabethan Poor Law Act (1601); the New Poor Law (1834) and the Trustee Acts (1925).

In recent decades, a raft of legislation has occurred quick succession including Charity Acts in 1993, 2006, 2011, the Trustee Act 2000, and the Charities (Protection and Social Investment) Act, 2016. It must be acknowledged that the charitable sector operates in an infinitely more complex and risk-averse environment than in previous eras. Equally, however, increased direct and indirect legislative prescription highlights tensions and conflicts of interest between those of the state and the charitable sector which have far wider implications and resonance than simply effective governance.

# This conference was especially well timed for a sector faced with a Hobson’s Choice between compliance with self-regulation or risking further legislative prescription. Proceedings started with a paper from the new Charitable Fundraising Regulator, Stephen Dunmore, who assured the gathering that the approach is founded on ‘values-based regulation not rule-based regulation’ and that his role was to ‘support the sector, account to donors and to the public’. Dunmore then outlined the investigative powers and the procedures of the agency. He concluded that the first aim of his agency to was to develop a Code of Practice which would gain the support of the sector. The agency could not otherwise continue without the financial levy and consensus of members.

# Professor Stephen Lee (CASS Business School) argued that fundraising is not in itself a charitable object, and necessarily impinges on charitable aims. It is therefore vital that charities are transparent and accountable for their practices. Part of the sector had allowed a direct marketing paradigm to become a prominent fundraising approach. While direct marketing was only a small part of fundraising, it was unfortunate that this is now associated in the public mind with charitable fundraising.

# Elizabeth Chamber (NCVO), discussed the guidelines on fundraising (the CC20) which they had produced in conjunction with the Charity Commission. Fundraising was the most common and often only interface between members of the public and a charity. Public trust in charities had declined quite markedly as a result of the news stories in 2015. However, public trust in charities remains comparatively robust, but the sector must work hard to sustain and improve that trust. Pesh Framgee (Crowe Clark Whitehill) argued that the current round of regulation was prompted by inaccurate media coverage. The premises on which current legislation has been sparked are flawed and erroneous.

# The morning’s sessions left us with questions about potential and actual effects on the charitable sector of a bewildering regulatory apparatus and whether it was necessary to create yet another regulatory body.

# In the afternoon sessions, Andrew O Brien (Charity Finance Group) noted that charitable ventures fail because their markets fail. No charity has a right to continue. If we perceive ‘failure’ as an unacceptable risk, we stifle innovation. Sir Stephen Bubb (Charity Futures) made a characteristically pointed contribution, opening his plenary address with the observations that the charitable sector had lost its nerve after the scandals of 2014-15. Turning to the matter of charitable leadership, he argued that governance is ultimately about the culture of individual organisations and the wider culture of the voluntary sector. Sir Stephen continued that the Charity Commission had been reduced to a regulatory vehicle and the roles of guidance and leadership had passed from it. This had left a leadership gap in the charitable sector. Moreover, the sector is unused to negative criticisms and felt especially exposed by the fundraising and executive salary issue. Additionally, the voluntary sector ‘has been supine’ on many of the key debates of the day, prompting him to ask ‘where is our voice?’

The afternoon sessions were largely given over to the importance of supporting Trustees. The output of legislation and guidance on Trustees’ roles and responsibilities has unintentionally conveyed the message that Trustees have to be legal of financial experts. This is contributing to the difficulties in recruiting members of the public to become Trustees. Stephen Bubb’s assertion that the voluntaristic principle can be set aside to allow Trustees to be paid elicited some lively responses. Louise Thompson (Governance Institute) noted that governance is not fixed, but continues to evolve. Concerns about governance and responsibility pervade all sectors, and the spotlight on charities now resembles the critical scrutiny of the commercial and public sectors, possibly for the first time. Sarah Atkinson (Charity Commission) replied that this underlined, rather than detracted from, the importance of the voluntaristic principle and the distinctiveness of the voluntary sector from others.

One overall conclusion I took from this this event is that the charitable sector is consciously responding to the different ways that it is coming under the orbit of a governance apparatus and paradigm that largely applies to the public and corporate sectors. This is one more mechanism pushing the sector towards standardisation with corporate or statutory models. The suitability of a generalised governance framework is under question in some areas. Data protection laws were instituted with the charitable sector in mind, but charities will now have to demonstrate how they obtain historic donor consent. Investment in compliance resources are taking a rising proportion of charitable funds. The potential loss of ethical and legal distinctiveness of the sector as it strives to fit statutory and commercial frameworks continues to be a resonant matter.