

Social Practices or Functional Skills? Rehabilitation or Rights? An Analysis of Scottish Prison Learning Contracts

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Abstract

This paper critically examines some of the research arising from prison contexts internationally, questioning the notion that adult learning might serve the purpose of rehabilitation or encouraging desistance from crime. These discussions are utilised to inform a strategy for conducting a high-level documentary analysis of historical and current commercial contracts, held between colleges of further education and the Scottish Prison Service, for the delivery of prisoner education in Scotland. Here I suggest that leadership from the further education sector and the prison service in Scotland have made use of favourable national adult learning policies, co-creating commercial contracts that might take forward a social practice approach to prison learning. However, I also question the educational basis for both the commercial contracting of adult learning and the notion that adult learning should encourage desistance from criminality.

Questo articolo esamina criticamente alcune delle ricerche che trattano a livello internazionale dei contesti carcerari, mettendo in discussione l'idea che l'apprendimento degli adulti possa riabilitare o incoraggiare la desistenza dal crimine. Queste discussioni sono impiegate per condurre un'analisi documentale di alto livello sui contratti commerciali storici e in corso, attivati tra istituti di istruzione superiore e il Servizio penitenziario scozzese, per l'offerta di istruzione per detenuti in Scozia. Il saggio suggerisce che la leadership del settore dell'istruzione superiore e il servizio carcerario in Scozia hanno fatto uso di politiche nazionali favorevoli all'apprendimento degli adulti, co-creando contratti commerciali che potrebbero portare avanti un approccio di pratica sociale di apprendimento in carcere. Tuttavia, metto in discussione anche le basi educative della contrattazione commerciale per l'apprendimento degli adulti e la nozione che l'apprendimento degli adulti possa incoraggiare la rinuncia alla criminalità.

Keywords: Prison Education; Adult Education; Social Practice; Literacies Learning; Desistance; Marketisation.

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1. Introduction

There is some disparity across national contexts around the question of whether learning in prisons is primarily a component of prisoner rehabilitation, or a human right (Vorhaus, 2014). Arguments have been made that if the focus lies with rehabilitation then there is a requirement to gather evidence of education having a positive effect on prisoners that might serve the social or economic good. The difficulty here is that this is an instrumental defence of education (*ibid*, p. 162). The argument is borne out by a comparative analysis of prison education policy in Norway and England & Wales (Costelloe & Warner, 2014) demonstrating that where justification for prison education is strongly linked with rehabilitation, education programmes are largely instrumental with a strong emphasis on the attainment of functional literacy skills (see Czerniawski, 2016).

The research that I present below takes forward the rehabilitation versus rights discussion, through the critical analysis of a series of commercial contracts for the delivery of prisoner education in Scotland. The contracts were brokered between the Scottish Prison Service and further education colleges, for the delivery of 'learning and skills' in prisons, between 2005 and 2017. My analysis suggests that Scottish education policy (Scottish Executive, 2001; 2005; Scottish Government, 2004) is a further factor influencing the delivery of prisoner education. It seems that Scotland's Colleges and the Scottish Prison Service have utilised a favourable education policy context, over time, to negotiate contractual arrangements for prisoners so that learning might be better contextualised within experiences and aspirations, with less emphasis on functional and instrumental programmes.

I also note that the above developments have taken place alongside the advancement of criminal justice policy informed by desistance theory and the idea that prison regimes might encourage processes leading to prisoners desisting from crime, so entangling adult learning theory with criminology theory and perhaps lending support to the notion that adult education might rehabilitate people. In line with Czerniawski (2016) and Rogers, Simonot & Narthey (2014), my analysis also supports the view that the negative influence of competitive commercial tendering for prison learning may be of greatest significance in terms of impact on kinds of education that students engage with whilst in prison.

2. Background

There are similarities between the contexts for prison education across both England & Wales and Scotland. Both national contexts boast the highest imprisonment rates in Western Europe (Czerniawski, 2016). Likewise for both, most accredited prisoner education is contracted out commercially for delivery by third party providers, where the prison service is the purchaser of learning and skills services and the supplier is typically a college of further education, making prison learning the most heavily marketised sector of education in the UK. Historically, Scotland has maintained separate systems of law and education to England & Wales and currently both criminal justice and education are within the remit of the Scottish Parliament. This means that whilst similar commercial contractual arrangements are in place for prison learning within Scotland and England & Wales, they are brokered between different education and criminal justice systems.

Across the UK, commercial contracts for prison learning are not available for public scrutiny. Significantly, this means that neither prison educators nor students are party to the content of the commercial contracts that guide prison learning curricula. However, a range of Scottish prison learning contracts have been released using UK legislation (ICO, 2000) empowering citizens to request the release information from publicly funded bodies. The analysis of the contracts presented below reveals, for the first time, what the contractually agreed obligations for prison learning are in Scotland and what this might mean for prison education practitioners, their partnership organisations and students in prisons.

I focus my analysis upon a sequence of historical contracts from the Scottish context, dating from 2005 to 2017, but I commence by describing the setting for prison education and in so doing I justify the strategy that guided the analysis of the contracts. Firstly, I consider the influence of managerialism and performativity (Gleeson & Shain, 1999) in the prison education setting, as a consequence of UK prison education being subjected to commercial contracting arrangements (Rogers et al, 2014; Czerniawski, 2016). Secondly, I consider the Scottish education policy context (e.g. Scottish Executive, 2001; 2004;

2005) discussing implications for the development of prison education curricula in Scotland. Thirdly, I address the wider purposes of prisoner education and the idea that prison education should ‘rehabilitate’ people. Finally, if prison is understood as a ‘total institution’, then it can be assumed to have a negative impact upon the identity of prisoners (Goffman, 1961). Here there is a legitimate but neglected question concerning the extent to which education might mitigate against the negative affect of prisons upon people. I now take in turn each of the abovementioned themes as a way to illustrating the context of prison learning in Scotland, as well as indicating the logic informing my strategy for analysing Scottish prison education contracts.

3. Managerialism and prison education

It is significant to note that further education colleges in the UK currently operate following a business model. In part, this is a consequence of the Thatcher government’s Further and Higher Education Act (1992) (see Gleeson & Shain, 1999) which was implemented via separate legislation for England & Wales and for Scotland. The Act re-instituted colleges with independent corporate status, breaking them away from previous democratic control through Local Education Authorities. Colleges became legally independent corporations with non-elected governors, many of whom are drawn from business settings, responding to centralised funding regimes incorporating competitive bidding systems. Arguably, these developments encouraged a culture of business and enterprise where staff as well as governors acquired entrepreneurial attitudes and behaviour (ibid, p. 548). This tendency has been summarised as a culture of managerialism where the professional values of educators’ conflict with a managerial paradigm focused upon income generation and efficiency (Randle & Brady, 1997, p. 232), demanding an increase in measurable learning activity and compliance with bureaucratic accounting and monitoring systems (Ball, 2003, p. 221). This is the setting in which commercial contracts for learning and skills business are brokered on behalf of prisoners and it seems fair to suggest that there is the potential here to create an educational environment in prisons where managerialism takes accelerated and extreme forms.

Research in England & Wales confirms this, where the performance management of prison learning contracts has been shown to encourage an emphasis on measurable outputs and a ‘bums-on-seats’ culture where ‘bite size’ accreditations are offered at a low level, with few opportunities for students to progress (Champion, 2013, p. 17). Instead, individual students accumulate large numbers of low level, low currency accreditations, known as ‘qualification stacking’ (ibid). Reporting on a survey of 278 prison educators in England & Wales (Rogers et al, 2014), 62% of participants criticised the practice of competitive tendering for prison learning contracts, coupled with outcome related funding, for its negative effects upon the quality of education offered to students. In the same survey there was some indication of a contributing effect upon workplace culture, with 119 respondents indicating bullying by managers as one of the top three challenges faced in their jobs (compared to 12 respondents reporting bullying from prisoners as a top challenge) (ibid, p. 24).

In England & Wales prison learning contracts have been renewed every three years creating a climate of instability where staff and students experience insecurity and uncertainty as a consequence of the short term planning of education provision and discontinuity following contract changes (Champion, 2013). In Scotland, the terms of contracts are longer—up to six years, perhaps resulting in more stability of delivery, with less urgency to meet the demands of some performance indicators. However, the Scottish Government’s (2010, p. 41), report on options for improving ‘offender learning’ and the Scottish Prison Service’s most recent learning and skills strategy (SPS, 2016) have both recommended a shift away from a programme driven approach to provision, towards a person-centred approach based upon need.

This might suggest similar challenges in Scotland where target driven practices are also in play. However, in the Scottish context there has been no research comparable to that undertaken in England, further highlighting the significance of the analysis of Scottish prison ‘learning & skills’ contracts presented in my analysis. It is the ‘performance management’ section of the commercial contracts that was of particular interest here and these were analysed to consider the implications for a culture of managerialism within the prison education setting.

4. The Scottish education policy context

Whilst the commercial contracting of prison education is common across the UK, there are differences in national education policy contexts that may have some influence over the formulation of contracts. The Scottish contracts were therefore analysed to determine the extent to which education policy was written into their content. Historically, literacy and numeracy has formed the basis of the prison curriculum and so Scottish education policy as it relates the adult literacy and numeracy was considered in the light of contract content.

Unlike England, the delivery of adult literacies education in Scotland remains largely the responsibility of local authorities, mostly organised through local council youth and community services, known as Community Learning and Development (CLD) (Tett, Hamilton & Crowther, 2012). The funding for adult literacies is no longer ring-fenced by the Scottish Government and, as with the remainder of the UK, adult literacies learning in Scotland has suffered from a decline in resourcing (Galloway, 2016). However, Scottish policy intended to inform the practice of adult literacies education differs from that in England, where a movement towards instrumentalism has been analysed and tracked (e.g. by Ade-Ojo & Duckworth, 2015). Since 2006, the teaching of adult literacy in England has been closely identified with the gaining of functional skills through employer-led rather than learner-responsive initiatives (Tett, Hamilton & Crowther, 2012, 35–36). By contrast, Scottish adult learning policy continues to support a social practice approach to literacies learning (Scottish Executive, 2005), attaching importance to contexts and processes of learning rather than the specification of pre-defined content in the form of isolated and decontextualised literacy skills. The more recent roll out of Scotland's Curriculum for Excellence (CfE) (Scottish Executive, 2004) reinforces this approach to literacies education within schools, supported partially by the idea of a process curriculum, where opportunities for inter-disciplinary learning, learning outside of the classroom and active citizenship are encouraged (Priestley & Humes, 2010). The current Scottish education policy context suggests that learning focused upon literacy and numeracy need not result in functional and instrumental programmes and with this in mind, I analysed prison contracts for reference to Scottish education policy and discourse relating to social practice approaches to literacies learning.

5. The purpose of prisoner education: rights or rehabilitation

Education in prisons is under-researched (Czerniawski, 2016) and internationally, a large proportion of existing research focuses upon the idea that education might serve to rehabilitate students in prisons (see Ellison, Szifris, Horan & Fox, 2017). The notion of rehabilitation originates within the discipline of criminology and to date there has been a dearth of engagement with this concept from a contemporary adult education perspective.

Nineteenth century advocates for adult literacy education in Britain have held to the supposition that learning would encourage improved moral character amongst those judged as deviant, such as prisoners or unmarried mothers (see Hamilton, 1996, p. 146–47; Lankshear & Knobel, 2003, p. 4). Indeed, this type of premise has had wider international influence, described by Street (1984) as a great divide theory where literate societies have been assumed historically to be more civilised and more capable of social and economic progress than their non-literate counterparts. There is a strong tradition in Britain of adult education practitioners asserting against such assumptions (Fieldhouse & Associates, 1996). What's more, since the 1970s, research has exposed them as damaging myths laying the basis for the abovementioned social practice conceptualisation of literacies found within Scottish education policy (Hamilton & Hillier, 2006).

It remains that early British prison learning programmes were rooted in deficit thinking as was much of the early development of adult basic skills education (Hamilton, 1996). Williams (1961) describes the history of thought influencing adult education in nineteenth century Britain, identifying an influential strand of lobbyists supporting universal rights to adult learning whilst arguing that an education in high culture might nourish 'spiritual health' (ibid, p. 162–163). Given Williams' analysis, it might be significant to note the striking numbers of researched prison learning projects, internationally, focused upon the arts or liberal education, whilst making a link to the idea of rehabilitation (e.g. Sams, 2014;

Tett, Anderson, McNeill, Overy, Sparks & Richard., 2012; Keehan, 2015; Clennon, 2013; Clements, 2014; McDowall, 2014).

In the UK criminal justice systems, the idea of rehabilitative programmes for ‘ex-offenders’ or prisoners gained currency in the 1990s, following criticism that the practices of probation services focused mainly upon assisting and helping ‘offenders’, whilst neglecting to demand that individuals take responsibility for their criminal actions (McNeill, 2006). Alternatives required individuals to commit to changes in their behaviour whilst simultaneously receiving assistance and help (ibid, p. 44). In the Scottish context, the idea that prison might hold a rehabilitative role emerged in the 1990s. Before then, the role of the Scottish Prison Service was primarily one of ‘running safe, humane and orderly prisons’ (SPS, 2013, p. 54) rather than playing a role in reducing law breaking.

More recently, the Scottish Prison Service’s strategic approach (SPS, 2013) has been aligned explicitly to desistance theory, a dominant paradigm informing life-course or ‘criminal career’ research (Farrell & Maruna, 2004, p. 358), influential in informing Scottish criminal justice service provision. Desistance theory offers ways of understanding how people with convictions come to change their behaviour and so desist from law-breaking, with three main orientations (McNeil, 2006, p 46; Graham & McNeil, 2017). Firstly, that people desist from law-breaking without any intervention as they age through the life course and secondly, that developing social bonds with family or within employment might stimulate significant life course changes. Finally, narrative theories have emerged from qualitative research, stressing the significance of subjective changes taking place in relation to a person’s sense of self and identity.

The Scottish Prison Service acknowledges how understandings of desistance imply that moving away from law-breaking is largely ‘naturally occurring’ (SPS, 2013, p. 52) as individuals age and develop different relationships, perhaps through employment, marriage or parenting. Regardless, desistance research has also been operationalised to suggest ways that criminal justice practitioners might engage with people to assist or accelerate envisioned desistance processes and it is in this context that a role for education is set out (SPS, 2013). The idea is that processes towards desistance from law-breaking might be accelerated, where the educator takes up the role of ‘forcing the plant’ (Farrell & Maruna, 2004, p. 361) and education is understood metaphorically as a form of horticultural activity. For example, in England, the Prisoner Learning Alliance’s workbook aimed at advising prison governors on prison education, describes a vision of prisons as greenhouses not warehouses (PLA, 2017).

More specifically, envisioned processes of desistance are those where people experience an underlying change in their identities. Perhaps here lies the potential to link with adult learning theories, including social practice understandings of literacies learning. On initial inspection it seems to me that notions of desistance do not sit well when considered from a contemporary adult education perspective. For example, literacies learning research supports the idea that educators should value their students’ existing culture (e.g. Tett, Hamilton & Crowther, 2012) rather than encouraging a change in culture that might accelerate processes of desistance. There is also a rationale for adult literacies learning to support students’ authoring their own identities so that they might influence dominant discourses (Janks, 2010), or garner social capital (Ade-Ojo & Duckworth, 2015). But again, these conceptualisations of adult literacies learning are aimed at empowering students through asserting existing identities rather than encouraging desistance through identity change.

As I mentioned above, educationalists have yet to give considered attention to notions of rehabilitation or desistance as conceptualised by criminologists. Here it is important to note that approaches to adult learning, such as the abovementioned social practice model, may also be subjected to critique (e.g. Galloway, 2017) and what these imply for the practice of prisoner education may influence judgements on their desirability. It is beyond the scope of this writing to offer such a critique. However, whilst acknowledging the above discussion, Scottish prison learning contracts were analysed for indication of educational purpose, be it rehabilitation, processes of desistance, employment needs, cultural benefit or empowerment.

6. Impact of prison on the self

The Council of Europe acknowledges that education in prisons takes place within an environment that is damaging to prisoners for ‘prison is by its very nature abnormal, and destructive of the personality in

a number of ways' (Council of Europe, 1990, p. 9). Warner (2007, p. 173) goes further, questioning how education can with validity be judged by recidivism rates when factors such as abuse and humiliation, inhumane conditions and further alienation from society may be at work within the prison environment.

Goffman (1961) describes prison as a 'total institution' and summarises the affects upon prisoners as a 'mortification' of the self. On entering prison, an individual 'begins a series of abasements, degradations, humiliations, and profanations of self' (ibid, p. 24). Prisoners are subjected to procedures which ignore their ways of self-identifying prior to entrance and are so stripped of their 'identity-kit' (ibid, p. 26). Their previous identity is 'attacked' and they are forcibly re-identified through compulsory participation in an array of detailed and regulated regimes that are likely to precipitate acute psychological distress (ibid, pp. 30–50).

This conceptualisation does not sit well with the vision that prisons might support positive identity change associated with envisioned processes of desistance. Even the Scottish Prison Service, when reporting on its organisational review, acknowledges comprehensive negative impacts of prisons on prisoners (SPS, 2013, p. 57). However, there is a lack of prison education research acknowledging the crashing collision between a prison environment and possible alternatives experienced within an educational space. Exceptions include Carrigan & Maunsell (2014) who acknowledge Goffman's 'total institution' as the context for their research into learners' identities, whilst Pike & Adams (2012) describe how distance learning assists students in prison to 'cope'. Bhatti and Ghazari (2010) are unusual in addressing the impact of prisons head-on in the design of their research, concluding, like Warner (2007), that organised prison learning is often the only space in a prison which can offer hope.

Prison learning contracts are brokered between the criminal justice and education systems which have divergences in aims, purposes, policy and culture that might have visibility within discourses found with the commercial contracts. The contracts were therefore examined for indication of tension between criminal justice and education policy and also for acknowledgement of the impact of prison upon students' identities.

7. Analysis of prison contracts

I offer analysis of three tranches of commercial contract for the delivery of prison learning in Scottish Prison Service prisons, brokered in 2005, 2011 in 2017. I discuss the 2005 and 2011 contracts together and deal with the current 2017 contract in a separate section, including observations on how this differs from the previous contractual arrangements. To summarise, I offer a high-level analysis of all the above contracts, examining discourse in relation to the themes identified above:

- References to education policy and indication of educational purpose e.g. desistance, empowerment, employment skills etc.
- Indication of a culture of managerialism
- Tension between the criminal justice and education systems, including the impact of prison upon learners' identities.

The contracts analysed below were brokered between the Scottish Prison Service (SPS) and a supplier colleges of further education. Just two colleges have won contracts, but college mergers have led to changes in the college names between 2005 and 2017.¹ As the contracts are tendered by the prison service, which makes Scotland's Minister for Justice responsible for prison education rather than the Minister for Education. This is indicated by how vocational education in Scottish Prisons is delivered by prison officers rather than college lecturers and vocational learning is not included explicitly in any of the contracts. In both 2005 and 2011, two colleges were contracted to deliver prison learning in the thirteen prisons operated by the Scottish Prison Service. In 2017 a single contract was brokered with Fife College for the delivery of learning and skills to all thirteen SPS prisons.

1. Contracts have been held by two colleges: 1. Lauder College which changed its name to Carnegie College (2007) and following college mergers in 2013 is now part of Fife College. 2. Motherwell College which since 2013 became part of New College Lanarkshire.

8. Scottish Prison Service education contracts – 2005 and 2011

In 2005 the contracts brokered had identical wordings, perhaps suggesting that neither of the two college suppliers had influence upon the content. Notably, in places, the contracts oblige the colleges to undertake developmental work. This implies differentiation by outcome, where colleges might commence delivery on an equal footing, but complete the contract delivering different types of education provision, depending upon the development work they have undertaken during the contractual period. This is borne out by the 2011 contracts, awarded to the same colleges, which are non-identical and contain a ‘Suppliers’ Proposal’ setting out the college’s delivery plan that they are contractually obliged to roll out (Contract Reference 00892 C and M, Schedule D).

9. References to education policy and indication of educational purpose – 2005 & 2011

In summary, educational objectives outlined in the 2005 contracts are informed by Scottish Prison Service’s vision statements rather than Scottish education policy. Indeed, there is no reference to any education policy within the 2005 contracts. Four foci are selected from a SPS vision document which are converted into a series of deliverables, namely, that prisoners should be able to read, write and count; be more employable; have the knowledge of how to access community support on release and be able to live independently. The central focus is the delivery of literacy learning, in part through embedding this into vocational training programmes delivered by prison officers (SPS Contract reference 00464 (L), Schedule A, p.6, pp.19–20). Interestingly, whilst in 2005, making prisoners less likely to re-offend is part of the SPS’s current vision, there is no explicit mention of this aim within the contract, seemingly divorcing education from rehabilitative aims.

To re-iterate, whilst the 2005 contracts focus upon literacy, numeracy and employability, Scottish adult literacy policy is given no mention. Notably, the curriculum is presented as content rather than process, demonstrating incoherence with the social practice approach outlined in the Scottish national curriculum for adult literacy learning (Scottish Executive, 2005). However, the contracts do stipulate that students should have an individual learning plan in line with Scottish education policy. The terminology of social practice is used once in regard to the assessment of prisoners’ operational literacy and numeracy skills and with no explanation. The contract stipulates that provision should integrate fully with other SPS and community services, but again there is no reference to Scotland’s Community Learning and Development policy that might inform this type of development (SPS Contract Reference 00464 (L), 24).

In line with the 2005 predecessor contract, the 2011 contractual arrangements place continued emphasis upon delivering literacy and numeracy learning, this time with reference to the Curriculum for Excellence (CfE), i.e. Scottish education policy for schools (Scottish Government, 2004) but still no mention of the national curriculum for adult literacy. The contracts stipulate contextualised learning to develop the key capacities of the CfE (SPS Contract Reference 00892 M, Schedule D, 19), including successful learners, confident individuals, responsible citizens and effective contributors (Scottish Government, 2004). This might suggest a wider purpose for education where the curriculum places emphasis upon the totality of learners’ experiences and the processes by which educational outcomes might be achieved, rather than focusing solely upon content to be learned (Priestley and Humes, 2010).

In 2011, there continues to be no mention of rehabilitation as an explicit aim for education. However, discourse relating to behaviour improvement and identity change is visible within Schedule D where the Colleges outline their own delivery plan. Carnegie college provides examples of students gaining confidence through engagement with history projects, music and arts education, stating that education might ‘promote a paradigm shift in the outlook, behaviours and goals’ of young men in particular (00892C, Schedule D, p. 11). Similarly, Motherwell College emphasises the expressive arts and social studies as vehicles to develop CfE capacities as well as embedding literacies learning (00892M, Schedule D). A discourse indicative of rehabilitative purposes is revealed claiming support from academic research demonstrating how music and art programmes ‘offer participants a creative outlet [sic] have a positive impact on of-

fenders'. The claim is that 'by engaging in experiences within the expressive arts, prisoners will recognise and represent feelings and emotions, both their own and those of others' making specific reference to arts-based education as a way to building the 'four capacities' (Contract 00892M Schedule D, p. 97–98). Similarly, programmes of social studies are claimed to support 'responsible citizenship', so 'broadening the horizons of those whose life experience is often very limited' for 'It challenges them to review their own lives and their opinions of others.' (ibid).

Carnegie College (contract 00892C, Schedule D, p. 36) implicitly allies their plan to a 'social practice' approach to teaching and learning aimed at the 'empowerment' of learners rather than 'remediation', citing a report from the Scottish inspectorate of education rather than explicit reference to policy. There is no explicit awareness of social practice approaches to literacy learning within the 2011 contracts, including use of related educational terminology.

10. Culture of managerialism – 2005 & 2011

To summarise, performance management frameworks outlined in the 2005 and 2011 contracts, rely upon numerical indicators to inform the evaluation of progress with the contracts. In other words, there is the potential for exaggerated forms of managerialism seems evident within the contracts, in line with the experience of England & Wales.

In 2005, Schedule D of the contracts contains a detailed performance management framework. It is noteworthy that it contains no mention of a plan for evaluating progress with the contractual requirement for colleges to develop community integration. Instead, progress with the contract is measured against a set of twenty-four numerical indicators, e.g. number of new prisoners enrolling, numbers accessing distance learning, numbers of entries or certifications for accredited units and courses by subject and level etc. If indicators are not achieved then financial penalties are applied, for example, if a class is cancelled or starts late. The college also receives monetary payments for the completion of each accredited qualification (ibid, Schedule C, p.2). Here, the college is not obliged to report figures on course length, suggesting that a student's completion of a ten hour module earns colleges the same payment as a student completing a year-long course of study.

Similarly, the 2011 contracts contain a detailed performance management framework now based upon 29 items of numerical data to be reported upon a monthly basis with financial penalties in force. In 2011, there is no acknowledgement of the colleges' contractually agreed plans for developing learning programmes within the performance framework. For example with regard to Carnegie's intention to engage in multi-agency working there is no requirement to report figures for referrals to community learning programmes. Likewise, case studies may not be used as evidence of contract fulfilment, though Carnegie College demonstrates the use of case studies within the contract itself. Similarly, for Motherwell College, there is no requirement to evidence progress with expressive arts or social studies projects. Remarkably, there is no requirement to evaluate and demonstrate progress with activity in relation to the principles and capacities outlined in the Scottish Curriculum for Excellence regardless of explicit reference within the contracts.

11. Indication of tension between the criminal justice and education systems – 2005 & 2011

As outlined above, the 2005 contracts are driven by the Scottish Prison Service, with little evidence of influence from education policy. In contrast, the 2011 contracts reveal a bridging between the two systems of criminal justice and education. The SPS offer an educational olive branch by including Scottish education policy within the contract specifications (albeit for schools). In response, the colleges demonstrate leadership in their proposals to widen curricula, including social studies and creative arts programmes (Motherwell College) or considering students as individuals who might be taught via a range of approaches involving inter-agency partnerships (Carnegie College).

Whilst in 2011 there is no explicit acknowledgement that prison might exacerbate rather than meet the students' needs, the case study of Dominic presented in the Carnegie College contract (Contract

00892C, p. 13) is potentially revealing. Carnegie College explain how Dominic had been in prison for the majority of a long sentence before entering the Learning Centre, yet presents initially as ‘fragile’, neglectful of ‘personal hygiene’ and with his ‘self-esteem very low’. Dominic goes on to develop very productive relationships with learning centre staff and to achieve some success with his education. Perhaps, within the discourse of a prison learning contract, this is an indication that education might mitigate the effects of prison.

12. Summary of 2005 & 2011 contracts

The educational objectives outlined in the 2005 contracts are based upon the Scottish Prison Service’s vision statements rather than Scottish education policy. Indeed, there is no reference to any education policy within the 2005 contracts. The 2011 contracts reference the national curriculum for Scottish schools and a social practice discourse emerges, but still no explicit mention of the Scottish national curriculum for adult literacy. Despite the changing role of prisons, away from prison management and towards rehabilitative objectives (SPS, 1990), the SPS make no reference to rehabilitation as a potential aim for education. Significantly, it is the colleges which introduce a discourse of rehabilitation in their delivery plans for the 2011 contracts, claiming that education might affect behavioural changes amongst prisoners, with Mother College citing academic research in support.

The 2005 and 2011 contracts contain performance management frameworks based upon numerical indicators and targets, with penalties for failure to deliver. The probability of a culture of managerialism and performativity seems likely, given a lack of mechanism to evaluate progress with individualised learning, the quality of expressive arts provisions, or processes of educational delivery outlined with the delivery plans. Nonetheless, the 2011 contracts do demonstrate leadership on the part of colleges in expanding the curriculum for prisoners, with some indication of a distinct and positive role for education within a prison context.

13. Scottish Prison Service education contracts – 2017

In 2017, the current learning and skills contract was agreed between the Scottish Prison Service and Fife College so that all thirteen SPS run prisons have a single college provider.

14. References to education policy and indication of educational purpose

The 2017 learning and skills contract brings together criminal justice and education policy for the first time. The document had been shaped by prison service’s organisational review (SPS, 2013) which is allied to a desistance understanding of the role of prisons, the vision being that:

Everyone in our care has the opportunity to engage in creative, flexible learning that unlocks potential, inspires change and builds individual strength. (SPS, 2013, p. 37)

It is also notable that, for the first time, the learning contract makes explicit reference to adult literacy and numeracy policy (Scottish Government, 2010) as well as the Scottish Government’s vision statement for adult learning (Scottish Government, 2014) which in turn cites a range of adult learning related policy and reports. Discourse relating to literacy policy is also notable in the specification of services within the contract, with adherence to a social practice approach to learning and e-learning, where the college is expected to produce an annual learning plan that maps onto education policy. One vehicle envisioned for this form of delivery is ‘project themed learning’ based around the study of contemporary topics, on the basis of previous success of this approach within the Scottish prison estate (SPS, 2017, p. 48). The contract also recognises explicitly that there are groups of learners who require curricula tailored to their specific needs and aspirations e.g. young people, women, those with learning difficulties, older prisoners and those speaking English as a second language (ibid, pp. 54–56). Subject areas mentioned

include health and well-being, arts and humanities, social science, Scots language and cultural studies, with the continued omission of science and engineering, perhaps indicating an ongoing privileging of a liberal arts education in prisons.

In summary, there is indication of the college developing and delivering a more integrated and holistic curriculum for learners, where literacy and numeracy are embedded within a broader and more diverse curriculum. The college is expected to take better account of learners' aspirations in terms of progression whilst simultaneously taking responsibility for supporting additional needs.

15. Culture of managerialism

Previous contracts managed the performance of the delivery of learning and skills through measurement against a series of numerical indicators, with a dearth of opportunity to evidence the quality of the curriculum and success in terms of students' experiences of learning, their perceived progression with education, or educational benefits beyond the achievement of qualifications. In 2017, the possibility is raised for a departure from reliance upon numerical indicators and associated cultures of managerialism. Whilst there is strong commitment to the detailed numerical recording of attendance rates as a measure of success in contract delivery, there are other evaluation criteria and methods that may be used, which might mitigate against this, providing they are operationalised. For example, learning and training relating to vocational areas is expected to be better aligned with industry norms and employer needs, supporting prisoners towards potential employability outcomes. Though not stated explicitly in the contract, this suggests offering accreditations at higher levels and with greater volumes of credit attached, perhaps avoiding qualification stacking where prisoners have previously accrued large numbers of valueless accreditations that rated highly for colleges in terms of contractual key performance indicators. The college provider is also expected to create a broader evaluation strategy, alongside regular reporting, that might incorporate learners experiences, case studies (SPS, 2017, p.40), evidence of referrals to employers or further and community education and other indicators of progress. Here the contract places responsibility on the single college provider, rather than the Scottish Prison Service, to develop a robust evaluation strategy that might go some way to asserting against a tick-box culture.

16. Indications of tension between the criminal justice and education systems – 2017

Perhaps tension between the prison service and college provider will be played out over the extent to which the abovementioned evaluation strategy is developed and implemented. Whilst the 2011 contract was formulated by the prison service, there was the opportunity for some input from colleges in the form of the contract delivery plan. As discussed above, the 2017 contract progresses this further by referencing both criminal justice and education policy, in contrast to the 2005 learning and skills contracts which failed to mention Scottish education policy at all.

However, this bringing together of Scottish criminal justice and education policy in a single commercial contract might support the idea that criminological theories of desistance and social practice understandings of adult education are mutually compatible. There is a tacit assumption within the contract that education contextualised meaningfully within the goals, aspirations and interests of students is best placed to support processes of desistance from lawbreaking, with the boundaries between criminal justice and education becoming blurred.

Scottish education policy is not devised with prisoner rehabilitation in mind and is rooted in the ideal of education as a right (Education Scotland, 2018), perhaps resulting in educational paradoxes in need of further attention. For example, the 2017 contract refers to the SPS vision to deliver 'rehabilitation and reintegration services that assist offenders towards responsible citizenship' (SPS, 2017, p. 78) and also acknowledges how the Scottish school curriculum (Scottish Executive, 2004) aims to support the development of responsible citizenship as a key capacity (SPS, 2019, p. 42). However, Scottish adult learning and school education curricula assume that learners are already citizens as suggested by an accompanying

terminology of active citizenship (see Biesta, 2013), with the expectation that learning activity is developed in this spirit. This contrasts with education aimed at cultivating learners to become citizens in the future, implicit to the notion of rehabilitation or desistance theory as it relates to prison regimes (Farrell & Maruna, 2004).

17. Summary and conclusion

In this paper, I have described some of the context for prison education in Scotland as compared to England & Wales and used this to develop and justify a framework for analysing Scottish prison learning contracts. This involved examining commercial contracts from 2005, 2011 and 2017, considering themes of educational purpose, Scottish education policy, indication of managerialism and tensions between the criminal justice and education systems.

High level analysis in relation to the above themes demonstrated that educational purpose in 2005 was orientated around the acquisition of literacy and numeracy skills as they related to employment. In 2011 the contract was informed by school education policy and aims had widened to developing responsible citizens and effective societal contributors, with colleges demonstrating leadership in developing these notions into innovative and contractually agreed learning programmes. In 2011, both the Scottish Prison Service and colleges continued to neglect the idea of literacies as social practices, as set out in Scottish adult literacies policy. However, the notion of learning for rehabilitation emerged with one college drawing upon academic research to incorporate traces of this idea within contracted programmes. A static feature in the 2005 and 2011 contracts is a detailed performance management framework based upon a series of numerical indicators of service delivery.

By 2017, leadership is demonstrated on the part of both Fife College and the SPS in the development of a prison learning and skills contract compliant with Scottish policy for both criminal justice and education. This makes a social practice approach to adult learning a contractual requirement, requiring the single college provider to better integrate and embed literacy skills within a broader, more relevant and wide-ranging curriculum. There are also changes to evaluation strategies aimed at monitoring the performance of the contract, with opportunities to move away from a tick-box culture associated with managerialism, in favour of performance criteria focused upon perceived educational benefits for learners. However, I also note that this brings criminal justice and education theory together without scrutiny, where social practice approaches to adult learning do not necessarily sit well with the idea that education might support rehabilitative aims. Theories and notions arising from the discipline of criminology have, 'til now, received a dearth of attention from educationalists and here there is scope for further analysis.

I now return to the rights versus rehabilitation discussion which partially frames this paper. Vorhaus's (2014) argument centres on how rehabilitative aims for prisoner education might encourage instrumental approaches. I have discussed how adult learning policy may be a further factor here, as Scotland's adherence to a social practice model for adult literacies learning need not result in prescriptive learning programmes aimed functional and instrumental objectives. This writing has presented an analysis of commercial contracts for prison learning in Scotland, where processes for the performance management of contracts indicated a strong likelihood of instrumental programme delivery, in line with that found in England & Wales (Czerniawski, 2016). Perhaps the avoidance of instrumental and functional learning programmes under the current Scottish contract for learning and skills will be linked to the College developing a more sophisticated evaluation and performance management strategy. But widening the lens, two questions can also be raised. Firstly, should prison learning in Scotland be the remit of the criminal justice rather than education system and secondly, should this important area of adult learning be subjected to commercial contracting arrangements in the first place?

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