Probation Programme

Market Engagement 10th December 2018

Voluntary Sector Strategy

Protecting and advancing the principles of justice
The Ministry of Justice (MoJ) is undertaking this market engagement (“ME”) alongside the ‘Strengthening Probation, Building Confidence’ public consultation, which was launched on 27 July 2018. Please note the following:

MoJ

• is not liable for any costs incurred by anyone who chooses to participate in this ME;

• may choose and/or be obliged to disclose information submitted to it as part of this ME; in particular please note MoJ is subject to the Freedom of Information Act 2000 (as amended) and the Public Contracts Regulations 2015 (as amended);

• makes no guarantee, representation nor warranty (express or implied) with respect to any information disclosed as part of this ME;

• MoJ shall not be liable for any loss or damage arising as a result of reliance on information disclosed as part of this ME and/or from any participation in the ME; and

• is not committed to any course of action as a result of this ME.
<table>
<thead>
<tr>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
</tr>
<tr>
<td>Part A</td>
</tr>
<tr>
<td>Regional Authority and Regional Commissioning Budget</td>
</tr>
<tr>
<td>Change work for Retained Offenders</td>
</tr>
<tr>
<td>Part B: Voluntary sector strategy</td>
</tr>
<tr>
<td>Message from Clinks</td>
</tr>
</tbody>
</table>
Our public consultation ran from 27 July to 21 September 2018. In total, we received 476 written responses.

We ran 38 engagement events with 1,100 delegates. Delegates included current providers, new providers, the voluntary sector plus a range of special interest groups.

We engaged probation staff across England and Wales. We consulted service users through local workshops and surveys.
Probation Programme update

Since the last series of market engagement we have;

*Carried out detailed analysis of consultation responses and built this into our thinking*

*Continued our work on costings and to refine service design proposals. This includes;*
- Three whole day sessions to scrutinise design proposals with probation experts.

*Continued our work and conversations with stakeholders. This includes;*
- Regular engagement with PCCs and devolved authorities.
- A session in November to articulate our latest thinking on the performance framework and payment mechanism.
Her Majesty’s Prison and Probation (HMPPS) changes

A new Chief Executive of HMPPS is due to be appointed in due course.

As a result of a review it has been decided to create two new Director General posts - one for prisons and one for probation.

Appointments have been made, with Amy Rees being the interim Director General for Probation, and Phil Copple as interim Director General for Prisons. Permanent appointments will be made when the new Chief Executive commences in post.

The Probation Programme has transferred to HMPPS from the MoJ. This will help to align our work more closely with the operational arm of probation. This change does not alter the focus of the programme.
Session objectives

- We want to get your views and feedback on:
  - the proposed approach to address offender needs via the Regional Commissioning Budget
  - the proposed Panel of Specialist Suppliers to source directly rehabilitation activities
  - the proposed strategy to enable greater involvement of the voluntary sector in the future provision of probation services;

- We would also welcome written feedback following this event. Could you provide this by **Friday 14th December** so we can take it into account in implementation of our voluntary sector strategy. To provide feedback please email: **ProbationCommercialTeam@justice.gov.uk**
Procurement process (1/2)


- In late January/early February 2019 the Authority intends to outline the requirements to the market, share a draft ITT and contract to gather feedback.

- Contract Notice to launch competition anticipated for April 2019.

- SQ based with project specific questions.
  - **4 – 6 weeks to complete the SQ (April – mid May).**
  - 6 weeks to evaluate (May – June).

- Bidders unable to meet minimum requirements will be excluded.

- All suppliers who qualify for one or more lots will be placed on a “qualification list”, and can bid for any lot for which they meet the financial requirements.

- The Authority may lift the market share cap where any lot fails to attract sufficient credible bids and run a separate mini-competition for such lot (among members of the qualification list).
Suppliers successful at SQ will given 8 weeks to submit an initial tender. (June – August)

The Authority may contact material subcontractors named in tenders to test arrangements and commitments. (August – October)

Bids will be clarified and test and proposed solutions probed in 12-15 weeks (October – January)

We anticipate the following topics to be discussed: Transition, ICT, Pricing, Contract Management, Supply Chain and Service Design.

Please note the topics may be subject to addition and change.

Bidders will be given 4 weeks (February) to submit their best and final offer which will be evaluated in 4 weeks (March) to identify successful suppliers.

Letters will be issued to successful and unsuccessful bidders. (April)

10 day standstill period. (May)

Contract signature and commencement of transition. (June)
Market warming activity pre-procurement

We will be conducting market warming events in January and February 2019 in London:

• **28th – 31st January 2019:** a 4-day period of events and sessions detailing the Authority’s plans for the future probation services and its commercial strategy for procuring them; and

• **4th – 22nd February 2019:** optional one to one meetings with potential bidders to answer questions about the proposed plans.

• **12th – 14th February 2019:** voluntary sector market warming events hosted by Clinks in London, Bristol and York.

• **March:** Police and Crime Commissioners (PCCs) will also co-host with MoJ regional market warming events.

Further details regarding these events will be circulated in due course.
Part A:

Regional Commissioning Budget and Change Work for Retained Offender

Nathan Dick
Proposed probation structures for England

- Regional boundaries are made from **clustering current CRC areas**.

- Support and understanding during the consultation to the principles of **coterminalnes** public and contracted provider areas.

- Support for the concept of **regional leadership and strategic oversight** with commissioning, performance and business planning approval responsibility.

- Only one CRC area covers two of the new Contract Package Areas (CPA), which is Humberside, Lincolnshire and North Yorkshire (HLNY).
## Caseload within new contract package areas

<table>
<thead>
<tr>
<th>Region</th>
<th>CPA</th>
<th>Apr-Jun 18 Caseload</th>
<th>Apr-Jun 18 % Caseload</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>A</td>
<td>7,360</td>
<td>5.06</td>
</tr>
<tr>
<td>North West</td>
<td>B</td>
<td>23,610</td>
<td>16.24</td>
</tr>
<tr>
<td>Yorkshire &amp; Humberside*</td>
<td>C</td>
<td>15,390</td>
<td>10.59</td>
</tr>
<tr>
<td>West Midlands</td>
<td>E</td>
<td>16,020</td>
<td>11.02</td>
</tr>
<tr>
<td>East Midlands</td>
<td>F</td>
<td>10,530</td>
<td>7.24</td>
</tr>
<tr>
<td>South West</td>
<td>G</td>
<td>10,660</td>
<td>7.33</td>
</tr>
<tr>
<td>South Central</td>
<td>H</td>
<td>8,300</td>
<td>5.71</td>
</tr>
<tr>
<td>East of England</td>
<td>I</td>
<td>14,440</td>
<td>9.93</td>
</tr>
<tr>
<td>London</td>
<td>J</td>
<td>30,200</td>
<td>20.77</td>
</tr>
<tr>
<td>Kent, Surrey &amp; Sussex</td>
<td>K</td>
<td>8,880</td>
<td>6.11</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>145,390</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Caseload data is taken from ‘Table 4.8, Offender Management Statistics quarterly: April to June 2018’. Totals based on aggregating caseloads for current CRCs within proposed regions.

**Caseload figures are indicative and can be expected to change. No reliance should be placed on them.**
Overview of current structures

1. National oversight
   - Operational oversight of CRCs and the NPS

2. Contract and Delivery Plan Management
   - NPS has national oversight of divisions
   - Performance management of CRC by contract team

3. Operational Leadership (NPS and Contracted Provider)
   - Resource and business planning of operational teams
   - Local delivery plans
   - Escalated operational risks – e.g. enforcement/recall

4. Offender Management (NPS and Contracted Provider)
   - Deliver Statutory Duties of the Responsible Officer (RO)
   - Assess, Plan, Refer, Enforce, Review
   - Coordinate sentence delivery

5. Sentence Delivery
   - Change work that is delivered by RO
   - Specialist Interventions
   - In house delivery

6. Common Delivery of Sentence: (by CRC to both cohorts)
   - Unpaid Work
   - Thinking Skills Programme, BBR
   - Some planned packages of work via Fee For Use
Overview of regional structure

1. **Regional Leadership:**
   - Sets Strategic Plan – and co-ordinates delivery
   - Oversight of whole system delivery
   - Uses Commissioning Budget and partnerships to provide supportive services (7)
   - MoJ engagement with PCC, LG, HA and Public

2. **Contract and Delivery Plan Management:**
   - Contract compliance
   - Performance management
   - Functional activity e.g. finance

3. **Operational Leadership:** NPS and Contracted Provider each:
   - Resource and business planning of operational teams
   - LDU and sub regional delivery, CPA running
   - Escalated operational risks – e.g. enforcement/recall

4. **Offender Management:** NPS and Contracted Providers
   - Deliver statutory Duties of the Responsible Officer
   - Assess, Plan, Refer, Enforce, Review
   - Coordinate sentence delivery by others

5. **Sentence Delivery by OM organisation:** NPS and Contracted Provider
   - Change work best delivered by RO – brief interventions, motivation and support
   - Specialist Interventions to meet specific cohort needs – e.g. Sex Offender Treatment
   - Differentiated services due to Risk – e.g. 1:1 rather than group interventions

6. **Common Delivery of Sentence:** (by Contracted provider to both cohorts)
   - UPW
   - Thinking Skills Programme, BBR
   - Planned packages of work (specialist provision) from CP and their supply chain

7. **Regional Authority Commissioned Supportive Services:**
   - Services that enable more effective delivery of sentence
   - Co-commissioned activity via social investment and PCCs etc.
   - Provides longer term support beyond sentence delivery to prevent offending
Regional Authority and Regional Commissioning Budget
Regional Authority Role

- The Regional Authority will have overarching responsibility for probation services, and to ensure that the needs of service users are well understood by stakeholders.
- This is a wider responsibility than either of the two main delivery organisations.
- A focus of the Regional Authority will be to ensure the NPS and Contracted Provider in their region meet the required standards.
- A Regional Authority will be able to work with other stakeholders to promote new approaches to support people on probation.
- **We are exploring a usable (but affordable) budget held by the Regional Authority to support better services, encourage joint working, and innovation: the Regional Commissioning Budget (RCB).**
Regional Commissioning Budget

• Neither NPS nor contracted services are dependant on this budget. Probation services need to be delivered to the agreed level independently of the effectiveness of the Regional Commissioning Budget.

• The Regional Authority should use it to promote collaboration, better outcomes and test innovation.

• The regional authority is accountable for its use and should take an evidence-based approach to promote innovation and social justice.

• It provides a backdrop and an enabling environment in which justice and sentence delivery will occur.
Principles for the Regional Commissioning Budget

• This budget can **not** be used to fund services that form part of sentence delivery (these are already funded)

• It may used to achieve better outcomes for service users, reductions in crime, desistance from reoffending

• The budget can fund services that focus on diversion as well as beyond the sentence period to reduce the risk of offending or reoffending

• The regional authority should use the budget to promote joint working and shared objectives.

• The Regional Authority should work with others in planning the use of the budget

• All funding methods can be used: grants, match funding, contracts, co-commissioning, social investment.
The vast majority of our overall budget funds sentence delivery

The Regional Commissioning Budget underpins the core functions of HMPPS, but offers the opportunity to respond to service user need in different ways.

The tests for Regional Commissioning Budget

**Affordable?**
We can afford to create a suitably sized Regional Commissioning Budget

**Usable?**
There are opportunities to use this budget in a way that supports better outcomes and local partnerships

**Effective?**
The returns justify the investment and the structures that govern it
The aim of the regional commissioning budget is to encourage joint working and innovation aimed at supporting offenders.

• What outcomes or services do you believe a regional commissioning budget could/should purchase?

• Which commissioners/funders would you advise the regional authority/Ministry of Justice prioritise in relation to joint funding of services.
Change Work for Retained Offenders
Change Work

- UPW and Accredited Programmes such as Thinking Skills Programme (TSP) and Building Better Relationships (BBR) will be delivered by Contracted Providers (CPs) for both retained and allocated offenders.

- CPs will remain fully responsible for the delivery of other change work for allocated offenders.

- For retained offenders, the CPs will be asked to deliver change work when needs and solutions are common between retained and allocated.
# Sourcing change work for retained offenders

<table>
<thead>
<tr>
<th></th>
<th>Retained</th>
<th>Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation</td>
<td>Unique</td>
<td>Common needs</td>
</tr>
<tr>
<td>Education and Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mental Health</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attitude, thinking and behaviour</td>
<td>Panel</td>
<td>Service Catalogue to address all needs to be developed by Contract Providers with main contract.</td>
</tr>
<tr>
<td>Lifestyle and associates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family and relationships</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug and alcohol</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- The Authority is considering the establishment of a separate sourcing mechanism to access change work for retained offenders which will be used primarily to access services which are unique to NPS cohort: a **Panel of Specialist Suppliers**.
Service Acquisition of change work

- The contracted provider will provide the agreed packages to the allocated group (either directly or via supply chain)

- Currently most change work to the retained is provided directly by NPS staff

- We are looking at the opportunity for integration and efficiency for having a common regional approach to delivery

- The two key questions as to the sourcing of packages of work are:
  - The scale of work that needs to be sourced
  - The degree to which effect treatment will come from specialist needs facing organisations

- The Regional Authority (1) will decide whether to channel further work to Contracted Providers or whether to use the Panel, or instead keep the delivery of the service in house.
Long term desistance is achieved through addressing the causes of a person’s offending (criminogenic needs).

- Sentences, such as RAR and custodial (pre and post release), give HMPPS the authority and expectation to deliver change work that is enforceable.
- The retained and allocated cohorts are separated by offence type and risk of harm, but for many there are common needs.
- Table left (using the OASYS tool used on relevant cases) identifies the commonalities and caseload volumes.
- We recognise that headline needs may mask that specific issue and that treatment might not be common, or that it may need a responsive approach to delivery between and within the allocated and retained groups.
- Work is being undertaken to identify the potential proportion of each need that would respond to a common treatment.
Alternative sourcing mechanism for change work

• The alternative mechanism would operate as a dynamic panel whereby suppliers can qualify at any point in time and indicate what needs (e.g. lifestyle and associates, employment, etc), offender groups (e.g. women, BAME, etc) and geographical areas they will be able to serve.
• Every time a new requirement arises, the Authority will run a mini-competition with pre-qualified suppliers and award the contract for the delivery of the service.
• Contracted Providers will be able to qualify on the Panel if they wish so, and the Authority is also considering whether Contracted Providers could access the panel to procure change work.
• The panel will be used to award both contracts and grants and the Authority will decide what it is more appropriate.
• The Panel will act as a market place for buying and selling services for the rehabilitation of offenders and access could be given to other commissioning bodies including HM Prisons as well as Police and Crime Commissioners and Local Authorities.
Panel of Specialist Suppliers: questions

• What do you think of this alternative mechanism?
• Would you be interested in pre-qualifying?
• How should the dynamic panel work to encourage access?
Part B:

Voluntary sector strategy: enabling voluntary sector organisations to participate in probation services

Zoë Mackie
Voluntary sector strategy

We recognise the expertise and commitment of the voluntary sector is vital in helping people turn their lives around, as such we aim to encourage greater involvement of the voluntary sector in the provision of probation services.

Overall, we aim to:

1. **Remove barriers to entry** and to create the right conditions to allow voluntary sector organisations to bid as providers, either independently or in consortia; and

2. **Design service specifications** to allow smaller voluntary sector organisations to become part of intervention delivery supply chains for particular needs and/or cohorts.

We have considered how the voluntary sector can be involved at both **prime level** and as **subcontractors** for the main competition in England.
Voluntary sector at subcontractor level
Approach to procurement

We will:

- **Define requirements for rehabilitation services to encourage the involvement of the voluntary sector.** For example, by defining requirements to focus on specific user groups, prime providers will be encouraged to partner with, fund, subcontract or signpost to voluntary sector organisations with expertise in dealing with such cohorts. **However we will not mandate a level of spend with the voluntary sector to the Probation Services providers.**

- **Focus on specific groups** to allow smaller voluntary sector organisations in delivering rehabilitation services. The evaluation process should be structured to review how well providers meet the needs of specified groups and are able to secure rehabilitative outcomes.

- **Test bidders’ past experiences working with the voluntary sector as part of the pre-qualification phase**
Approach to procurement

We will:

• **Develop a contract and evaluation methodology, which enables the involvement of the voluntary sector.** By developing the evaluation methodology in such a way which that encourages prime providers to engage with local voluntary sector organisations in order to meet the needs of specific user groups and improve their scores.

• Require bidders to provide **details of material subcontractors** and if applicable, organisations which they intend to provide alternative funding.

• **Review supply chain partners.** The Authority will consider conducting a review of bidders’ proposed supply chains during the tender process to ensure real partnerships are in place and to understand any commitments made.

• **We will discourage exclusivity arrangements.**

• **Make tender commitments contractually binding**
Approach to contract management

We will:

- **Increase the level of transparency on supply chains** during contract management through regular detailed reporting of supply chain partners, services provided, spend, contractual arrangements and performance measures. This information should be made public.

- **require approval for changes of material subcontractors.** Suppliers will be required to seek the Authority’s approval via the change process if it wishes to amend or reduce the use (proportionate to volume) of material members of their supply chain.

- **replace the ISPA with key market stewardship principles.** The Authority will develop a short set of key principles which maintain the values established in the ISPA of providing protection and assurance, but in a much more proportionate manner which can be scaled by providers in correlation to services. The principles will include mandatory clauses primes will be expected to use with subcontractors.
Approach to contract management

We will:

• **establish an escalation route** to allow subcontractors to contact the Authority directly. The escalation route is intended to cover matters of market stewardship only and is not intended to remove the primacy of the contract between the prime and subcontractor. In providing this service the Authority and Regional Authorities, will both be acting on a purely voluntary/advisory basis.
Communication

We will:

- **signpost bidders to the Clinks directory of services** in order to encourage potential prime bidders to engage and form relationships locally.

- **direct bidders to NAVCA and the NCVO** to encourage prime providers to build relationships with local infrastructure organisations, thereby facilitating the development of supply chains.
Voluntary sector at prime / consortia level
Pre-procurement

- **We will circulate information regarding guarantee requirements (such as PCGs) early on.** Requirements should be proportionate and alternative forms of guarantee should be allowed. Any alternative instruments which are accepted must be considered as equivalent to a PCG to facilitate equal standing;

- **We will consider the Social Value Act.** We will set out any Act requirements which bidders should be required to evidence, including how it intends to use local small and medium sized enterprises and voluntary organisations to deliver services. Any commitments will be contractualised with reporting required.

- **We will discourage exclusivity arrangements.** The Authority has no exclusivity expectations and will actively discourages exclusivity arrangements that preclude partners or named subcontractors from joining other consortia or forming part of another supply chain. In the interests of transparency, the Authority will request details of any exclusivity arrangements which have been agreed. **In the event of a failed bid, any exclusivity arrangements will be considered to be terminated or invalid.**
PCGs

Percentage values below are indicative, and are subject to further modelling and to governance. Actual percentages may be higher. No reliance should be placed on these values.

• Pre-qualification will include an assessment of bidder financial health, and of ability to meet a financial threshold requirement

• The financial threshold requirement is presently anticipated as likely to be set at 30-35% of annual contract value

• The annual PCG limit of liability is presently anticipated as likely to be set at 30-35% of annual contract value

• The aggregate PCG limit of liability is presently anticipated as likely to be set at 40-45% of annual contract value
Figures used on this slide are merely indicative and can be expected to change. No reliance should be placed on them.

<table>
<thead>
<tr>
<th>Lot</th>
<th>Indicative potential contract value (£m)</th>
<th>30% (£m)</th>
<th>35% (£m)</th>
<th>45% (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>26</td>
<td>7.8</td>
<td>9.1</td>
<td>11.7</td>
</tr>
<tr>
<td>South Central</td>
<td>27</td>
<td>8.1</td>
<td>9.45</td>
<td>12.15</td>
</tr>
<tr>
<td>Kent, Surrey and Sussex</td>
<td>27</td>
<td>8.1</td>
<td>9.45</td>
<td>12.15</td>
</tr>
<tr>
<td>East Midlands</td>
<td>30</td>
<td>9</td>
<td>10.5</td>
<td>13.5</td>
</tr>
<tr>
<td>South West</td>
<td>35</td>
<td>10.5</td>
<td>12.25</td>
<td>15.75</td>
</tr>
<tr>
<td>East of England</td>
<td>40</td>
<td>12</td>
<td>14.35</td>
<td>18.45</td>
</tr>
<tr>
<td>Yorkshire and Humberside</td>
<td>50</td>
<td>15</td>
<td>17.5</td>
<td>22.5</td>
</tr>
<tr>
<td>West Midlands</td>
<td>52</td>
<td>15.6</td>
<td>18.2</td>
<td>23.4</td>
</tr>
<tr>
<td>North West</td>
<td>70</td>
<td>21</td>
<td>24.5</td>
<td>31.5</td>
</tr>
<tr>
<td>London</td>
<td>85</td>
<td>25.5</td>
<td>29.75</td>
<td>38.25</td>
</tr>
</tbody>
</table>
Jessica Mullen
Head of Policy and Communications Clinks
Thank you for joining us

To provide feedback please email ProbationCommercialTeam@justice.gov.uk