



Ministry
of Justice

Probation Programme Mobilisation and Transition

Market Engagement Event

12th December 2018

Protecting and advancing the principles of justice

Aims

- Explain our **current position** around the priorities and requirements for Mobilisation & Transition
- Build on earlier sessions and set out what this means for Digital & Technology, Estates, Staff and Pensions
- Seek genuine **feedback** during the session or as follow-up on points to shape our position for tender documents.

To note: The session today will focus on approaches to be taken only to England and that whilst many of the principles may well be common, the specific approach that will be taken in Wales will be the subject of a separate session in January.

Structure of this session

Item	Speaker	Time
Arrival and registration	-	10:30-10:45
Outline & objectives of the day	Kelly Furber	10:45-11:00 (15 minutes)
Mobilisation & Transition - Overall approaches	Kelly Furber & Janet Phillipson	11:00-11:20 (20 minutes)
Staff Transfer requirements <i>Roundtable discussion</i>	Susanne Moore	11:20-12:00 (40 minutes)
Break		12:00-12:15 (15 minutes)
Pensions requirements & Q&A	Belinda Macintosh	12:15-13:00 (45 minutes)
Lunch		13:00 – 13:45 (45 minutes)
Estates requirements <i>Roundtable discussion</i>	Sachia Thompson, Beth Chappell, Simon Jeffrey	13:45-14:30 (45 minutes)
Digital & Technology requirements <i>Roundtable discussion</i>	Carol Teece, Andy Philpotts, James Cook	14:30-15:30 (75 minutes)
Final Q&A and Close	Kelly Furber	15:30-16:00 (30 minutes)

Further pre-procurement engagement activity

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.



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Mobilisation & Transition – Overall Approach

Kelly Furber & Janet Phillipson

11:00-11:20

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Mobilisation and Transition - Priorities

- Securing the initial mobilisation of new contracts which ensures **good service continuity for** both service users and staff
- Giving suppliers the right **freedoms in transition to make changes** to their most effective operating model.
- **Achieving a balance between ambition and feasibility**
- Recognising **diversity in local circumstances**
- **Recognising what we have learned** from TR implementation
- Ensuring a **level playing field** for incumbents and newcomers



Mobilisation – Expected Approach

- Expected **6 months** duration - from contract award to contract commencement
- Critical mobilisation activities required to be ready for **Day 1** commencement - draw out in later sessions what these may look like
- **Winning bidders** will work with **incumbent** suppliers during this period, supported by MoJ
- **Bidder response** to ITN to include a **mobilisation plan**
- **Quality** of plans will be evaluated – published criteria
- Expect **mobilisation** to form part of the **contract**



Transition – Expected Approach

- Phase following the commencement date when suppliers will have **freedom to make changes to the staff, building or assets** in place to ramp up towards their optimum operating models in bids.
- **New service requirement** – expect to put new services in place during transition period rather than from Day 1.
- Transition period could potentially last **12-24 months from start of new contracts.**
- **Bidder response** to ITN to include a **transition plan.**
- We expect bidders to return transition plans of **varying duration.**
- **Quality** of plans will be evaluated – published criteria.
- Expect delivery of **Transition plan** to form part of the **contract.**



Initial Considerations

- **Bidding structures:** It is not our intention to stipulate the structures that suppliers would use to bid for the contracts. It will be for suppliers to decide.
- **Mechanism for transfer:** A transfer of assets is expected to be preferred to manage the handover between suppliers, rather than a sale of shares in current CRCs.
- **Supply chain:** We expect bidders to consider the current supply chain contracts (material services and support contracts) during the bid process in light of ensuring service continuity during transition.
- **Milestones:** We expect payment for mobilisation and transition to be a separate target cost element, not aggregated, and with available profit being awarded subject to meeting key milestones.

Further work is ongoing to develop our thinking. We welcome hearing thoughts today on any areas or concerns which suppliers would want to see due consideration being given to.





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Staff Transfer Requirements

Susanne Moore

11:20-12:00

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Session overview



Today we intend to:

- Provide information which we hope will be helpful to you;
- Focus is on the activity required to achieve a safe and stable staff transfer;
- Capture key questions / concerns around staff transfers and pensions;

Staff Transfer

England

- We anticipate approx 5000 staff will transfer from the current 20 CRCs to 10 Contract Package Areas (CPAs).

Splitting areas

- Humberside, Lincolnshire and North Yorkshire (HLNY) is the only CRC which spans two of the new CPAs.
- The proposal is to realign rural Lincolnshire with the new East Midlands CPA; splitting this area from the rest of the current HLNY CRC.
- We expect to work with current supplier to provide an indication in the data for the data room what this split looks like in terms of numbers;



Staff Transfer

Staff Transfer Schemes – Current Planning Assumptions

- TUPE will not apply to any staff engaged in providing probation services and the transfer will fall within regulation 3(5) of TUPE 2006, the Henke exemption.
- This is because the transfer involves a transfer of administrative functions between public administrative authorities. Even though the CRCs are private providers, they are carrying out activities that substantially involve the exercise of public authority and so the Henke exemption will be applicable to CRCs.
- The transfer of staff will be achieved using a Transfer Scheme (powers in Offender Management Act (2007)) similar to the 2014 Transfer scheme.
- The Authority will develop and complete the Staff Transfer Schemes.
- The Authority will support contractor to contractor transfers:
 - Set a framework – key milestones for mobilisation;
 - Track progress;
 - Ensure all parties engage with the process.



Staff Transfer - Requirements

Consultation

- We anticipate the transfer process will be 'TUPE-like'. Therefore both current and future employers will develop measures and consult on those measures.
- The current employer will instigate meaningful consultation with recognised Trade Unions and invite the future employer into the consultation, in time to complete the consultation in sufficient time ahead of the transfer.

Data

- Data on current service delivery models and workforce will be available in the data room.
- Current employers will provide workforce data on those they assess to be in-scope to transfer and any other workforce that forms part of their delivery model.
- Bidders will need to use the available data to develop their service delivery and cost models.
- Bidders will need to undertake due diligence on the available data and form on the overall workforce.



Authority Expectations

We will be looking for bidders to provide:

- Clear service delivery model and any key changes from current models that impact on people;
- Any specific requirements regarding people from the current employer during mobilisation;
- Intentions for current CRC, Parent Organisation and sub-contracted in-scope workforce;
- Intentions for current agency, temporary, sessional, sub-contracted (self-employed) workforce;
- Proposed post-transfer changes that impact the workforce (changes in the location of work, mobility of staff, rationalisation of structures, proposals for sub-contractors);
- How the employer will discharge obligations re transfer consultation;
- Proposed approach to engagement with recognised Trade Unions during mobilisation;
- Proposed approach to engagement with the workforce during mobilisation;
- Mobilisation plans setting out the activity and timeline.





Mobilisation



The activity during mobilisation would include:

- Provision of workforce, casework, litigation data from the current to the future employer to support staff transfer;
- Transfer of staff files from current to future employer;
- Formulation of 'measures' by both current and future employers;
- Transfer consultation with recognised Trade Unions regarding the transfer and any proposed measures;
- Build and testing of future employer payroll and HR systems;
- HR contracts: novation or put in place;
- Preparation for post transfer changes – including any formal consultation requirements that flow from proposed changes;
- Ongoing communication with affected staff.





Roundtable



- What are your views on the mobilisation timescale to support an effective transfer and people transition?
- What do you see as the role of the Authority in supporting contractor to contractor staff transfers?



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Break – 15 minutes

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Pensions Requirements

Belinda Macintosh

12:15-13:00

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Pension Requirements

Former Probation Trust staff were eligible to join the Local Government Pensions Scheme (LGPS) and retained their rights to be members of the LGPS when they transferred to the CRC's on 1 June 2014. In respect of former Probation Trust staff who retain eligibility to participate in the LGPS bidders will be required:

- to participate in the LGPS by way of an Admission Agreement, and will be required and become Admission Bodies of the Greater Manchester Pensions Fund
- ensure eligible employees are given the opportunity to participate in the LGPS;
- to comply with all rules of the Local Government Pension Scheme including LGPS Regulations and Greater Manchester Pension Fund Rules. Assurance mechanisms will be built in from HMPPS and MoJ Finance to monitor this going forward;
- pay all sums due under the LGPS Admission Agreement including the relevant employer pension contributions;
- publish a Discretions policy to comply with LGPS Regulations on what Discretions will be agreed. Any Discretions involving pension strain costs must be paid by the new providers.
- to take on the responsibility for strain costs associated with waiving actuarial reduction on active LGPS members for early and ill health retirement; and
- migrate the HR, Payroll and Finance data relating to existing LGPS active and deferred members transferring to their HR and Payroll system to enable HR and Payroll to undertake their duties as an Admitted Body.

About the Pension Scheme

- A flat Employer Pension contribution rate will be set in due course and bidders are likely to be asked not to risk price for any variation.
- The LGPS has some key features unlike other pension schemes and allows members to retire from age 55 with a reduced pension or seek agreement of the employer to pay the costs associated with them retiring early.
- New participating employers must publish a policy informing the members how they will exercise their discretion in certain circumstances and on what grounds.
- 3 levels of ill health retirement operate under the LGPS rules and staff deemed medically unfit on any of those categories will be retired with an enhanced pension dependent on the level and the new provider will meet the additional cost of the enhancement.
- Further data will be available via the data room.
- There are currently 4452 active members (as of 30 September 18) of the Local Government Pension scheme split between 21 CRC's.
- The pension fund for LGPS is GMPF. It is administered by the Tameside Metropolitan Borough Council which is the Administering Authority.
- Further Information can be found on LGPS website to GMPF <https://www.gmpf.org.uk/documents/policies/administrationstrategy.pdf>

About the Pension Scheme - continued

There are very few former Civil Servants who retain eligibility to participate in the Civil Service Pension Scheme (CSPS). The exact numbers will be confirmed. Where such employees exist, it is expected bidders will be required:

- to participate in the CSPS by way of an Admission Agreement, and will be required and become an Admitted Body;
- ensure eligible employees are given the opportunity to participate in the CSPS; and
- comply with all rules of the CSPS including paying all sums due under the CSPS Admission Agreement including the relevant employer pension contributions.
- In respect of both the LGPS & CSPS if the bidder ceases to participate in either at a time when it has employees eligible to participate it is expected bidders will be required to set up a broadly comparable pension scheme.

Additional information

- New starters who joined the CRCs from 2015 were not eligible to participate in either the LGPS or the CSPA.
- No new bidder staff will be eligible to participate in either the LGPS or the CSPA.
- Bidders will be required to comply with the statutory auto enrolment provisions for all such staff.
- It is likely that MoJ put in place additional pension protections for such staff.
- Bidders will be informed in due course of what pension additional pension protection will apply
- The numbers of the staff to whom these arrangements apply will be confirmed following via the data room



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Estates

Sachia Thompson, Beth Chappell, Simon Jeffery

13:45-14:30

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Background to our Current Estate

- CRCs were established in 2014 on a largely shared-property basis with NPS
- Policy at that time sought to encourage separation; as CRCs were expected to identify/ establish alternative community-based solutions
- Expected to be delivered within 12 months, this policy proved problematic to achieve.
- CRCs found the marketplace challenging, with both service and cost options limited
- The pressure to separate was removed as the Authority recognised the challenges being experienced
- Sharing has, in many instances, proven to have benefits for all parties
- This evolution has resulted in a mixed-market economy (i.e. complete exit or co-location)



Current Estate – indicative shape of estate

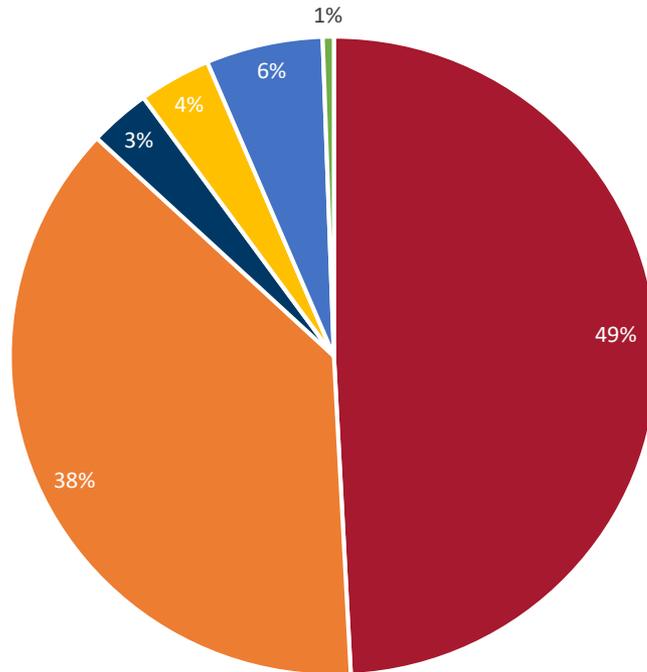
NPS & Shared

CRCs

Number of properties – 360 *includes shared buildings

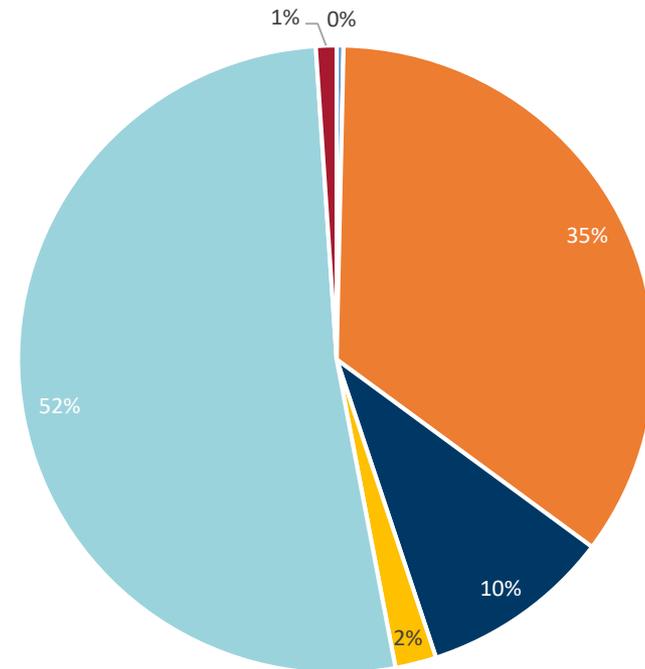
Number of properties – 287 *Excludes shared buildings

Tenure Overview



■ Freehold ■ Leasehold ■ Licence ■ Long Leasehold ■ MOTO ■ PFI

Tenure Overview



■ Freehold ■ Leasehold ■ Licence ■ TAW ■ TBC ■ Informal

Current Estate – Commercial arrangement

- **Shared properties:** in the main the head-lease is held by the NPS
- **CRC occupation** is confirmed via a Licence with the MoJ
- **Licence fee** is calculated as a proportion of NPS : CRC staff
- The licences oblige the Authority and the CRC to work together to facilitate shared occupation on a day to day basis, and items such as the use of shared facilities, such as meeting rooms, reception services etc are left to local agreement
- A separate commercial agreement (side or co-location agreement) seeks to confirm the arrangements in shared premises around reception, health and safety and other office support functions
- We are aware that many informal arrangements are in place for sharing space with other justice or community partners that supplements the formal probation estate.



Probation Estate – Future aims

- An estate that supports **better integration and partnerships with NPS** and other local justice partners. Supportive of informal shared arrangements with community partners as a supplement to more formal estate arrangements.
- An estate that provides for **appropriate confidential space** within which service users can meet their responsible officer, and adequate group or training rooms for the delivery of interventions.
- An estate which is geographically dispersed to **provide reasonable travel time** for service users.
- An estate that is **safe and accessible for users and staff but risk appropriate**
- An estate that demonstrates **financial value and efficiency** for all
- Fair, consistent and effective mechanisms in place for **charging and managing shared services** within the estate eg FM, reception, and which allow for change to be effected and channels for the escalation of issues.
- An estate that both reflects and **is supported by ongoing technology improvements** lending greater mobility to the workforce

Mobilisation and Transition – Approach to Estates

- We are considering how we may best set mobilisation requirements to support service deliver from the start of the new contract.

Mobilisation: Authority mandates new suppliers to inherit all the existing CRC estate from Day 1 of contract, meaning that:

- A supplier wholesale accepts rent, rates, dilapidation requirements with the building.
- MoJ uses property transfer powers, and offers new licences and leases for MoJ buildings.
- We do not advantage or disadvantage anyone in setting this, as we make the same provision for all.

Transition: Supplier uses the transition period of up to the next 24 months or sooner to adapt the estate as necessary for their operating model

- Suppliers will work with lease breaks and end dates during this period to end of lease
- Bringing onstream new property according to the details in the transition plan they submitted

Estates – Future Commercial Arrangements

- **Global Licence** with an appendix covering building specific details on a building by building basis
- **Charging mechanism:** Space occupied by CRC's in shared buildings will be identified as an FTE expressed as a percentage of space, rather than total numbers.
- **Improvement to side agreements:** we intend to remove the need for separate side agreements, or make the current system more consistent and simpler to use
- License will run to the end of contract or tenure with the ability to break in specific circumstances
- MoJ Estates will continue to provide FM in shared properties.
- CRC's wishing to make any alterations will need to seek approval from the Authority



Roundtable Feedback



- Are the overall aims for the estate the right ones?
- Inheriting the existing estate in Day 1 – Does this approach provide sensible stability or would greater flexibility be welcomed?
- Is there anything that could make sharing between NPS and CRC more attractive in the future or that provides an inherent barrier?
- How would suppliers view the introduction of a maximum travel time requirement of 90mins for users to access services?
- Charging for MoJ space: are there any views around the right way of doing this that is fair, consistent and allows for change and maximising use of space?
- Are there any concerns around anything in these approaches in providing advantage to incumbents?





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Digital and Technology Requirements

Carol Teece

Head of HMPPS Digital and Technology

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Outline of session



- Current ICT landscape for probation services
 - Vision for future Probation Services.
 - Transforming probation services to modern digital services designed to meet the needs of all users.
 - Focussing on optimising value from where we invest.
 - How we design modern digital services.
 - Implications for Providers considering bidding for next generation of contracts
 - Use of authority systems
 - Access to authority systems
 - Security and assurance
 - Infrastructure services
 - What we will provide
 - What you will need to provide
 - Mobilisation and transition
 - What are your views on the 6 month mobilisation timescale for IT?
 - What would help you to do this well?
 - What do you see as the role of the Authority in overseeing the mobilisation and transition for IT?
- 

Recap - Current Technology Operational Systems Landscape



Court

Prison

Community

Court (NPS)

Libra (magistrates)
Xhibit (court reporting)
Ndelius – inc Short
Format report

OASys

Effective Proposal
Framework (EPF)

Prison

Prison NOMIS and new
digital services (plus
privately managed
prison systems)

OASys

NPS

NDelius and
new digital
services

OASys

Interventions
Manager

CRCs

NDelius / plus
own CMS linked
to NDelius via
SPG

OASys plus own
tools

Interventions
Manager plus
own tools

**Case
Management:**

**Risk and Needs
Assessment:**

**Accredited
Programmes/
Interventions:**

Vision for future Probation IT & Digital services

- We shall replace our current siloed applications with a group of digital services that are consistent in look and feel
- These services will be developed with their users (across the probation supply chain) and will support transformed business processes which relieves staff of arduous and difficult administrative tasks
- This will allow more focused work with offenders to achieve our common business outcomes
- These new services will be available to all probation providers
- They will allow the data to be exploited to identify what works across the whole system and to inform policy and practice development

Implications for potential bidders

Use of Authority Systems

Providers will be expected to use Authority provided offender management systems to undertake their work. The Authority will provide access to the following applications (and any digital services that replace them) and their reporting tools:

OASys – to be used as the risk and needs assessment tool in prison and the community.

Interventions Manager – to record details of delivery of Accredited (and non-accredited) Programmes and Interventions

National Delius – so that required information is recorded on the Authority's probation case management systems

Prison NOMIS – to ensure that data held on the offender in custody is available and updated

We have already begun improving these services, aligned to the future vision, through introduction of new microservices, such as Search, Short Format Report and HDC

Access

The Authority will make our key applications (Prison NOMIS, OASys, and NDelius) and successor services available from the providers' own secure infrastructure (over the internet). However, where providers are working from prisons, we expect that they may use Authority provided equipment in that environment to access key applications.



Cyber Security Requirements



In light of the recent changes in HMG Policy and Standards the Authority are no longer doing 'accreditation' and instead are operating a model of continuous assurance and want Suppliers to adopt the same approach and follow cyber security commercial best practice.



Cyber Security & Information Assurance Requirements

High Level Requirements

- Certified to or working towards ISO/IEC:27001 - Authority will support Providers working towards certification or re-scoping their certification during the tender process
- Certified to or gain Cyber Essentials Plus
Have a repeatable risk assessment and risk management methodology
- HMG Guidance rather than standards
- Compliance with GDPR / DPA :2018 (not cyber but legislative requirement)

Governance

- Information Security Management System certified to ISO/IEC: 27001
- Security embedded into service management
- Separate live from dev and test. No use of live data for testing
- The Providers will be expected to act as Data Controllers in Common
- Comply with legislative requirements

Cyber Security & Information Assurance Requirements

Assurance

- Contractor and Authority working together to deliver end to end cyber security
- All Authority data and systems managed in accordance with the Government Classification Scheme at OFFICIAL
- Good commercial practices for cyber security
- Perform regular Security testing and timely remediation
- Providers to have access to suitably experienced/ qualified security specialists

General requirements (27001 compliance)

- Good auditable authentication mechanisms
- Separation of Duties
- Repeatable and agreed risk methodology
- Security Education and training
- Vetting/screening
- Incident management

Infrastructure services

Providers will provide:

Secure ICT infrastructure for their staff to use – eg: end user devices, personal productivity tools, email, printers

Back office systems and services

Connectivity (to the internet) to access Authority provided systems and reporting tools

Telephony services – fixed, mobile, video conferencing

Service arrangements for these services and liaison with Authority service management

The Authority will provide:

Service wrap for the use of Authority provided services. This includes:

- a service desk to be contacted to report faults and seek resolution
- a route to relevant services on the Authority catalogue (such as account creation/amendment/deletion)
- reporting on the performance of the authority provided services

Engagement with the Authority regarding improvements to the services provided

Access to Authority terminals with access to Authority applications in prisons

Access to IT in prisons will either be through Provider's IT or Authority IT depending on the provider's security and the physical constraints of the prison)

Mobilisation & Transition

Mobilisation

Successful bidders will be expected to ensure during the proposed 6 month mobilisation period that all critical IT services are in place by service commencement

Development of a mobilisation plan as part of the tender process

The plan will need to include a critical path for delivery and key risks, issues and dependencies

Transition

It is expected that there will be further changes to IT as the Provider moves to their target operating model

Development of a transition plan as part of the tender process

The plan will need to include a critical path for delivery and key risks, issues and dependencies



Discussion and Feedback



- What are your views on the 6 month mobilisation timescale for digital and technology?
- What would help you to do this well?
- What do you see as the role of the Authority in supporting the mobilisation and transition for IT?



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Recap and close

Kelly Furber

15:45-16:00

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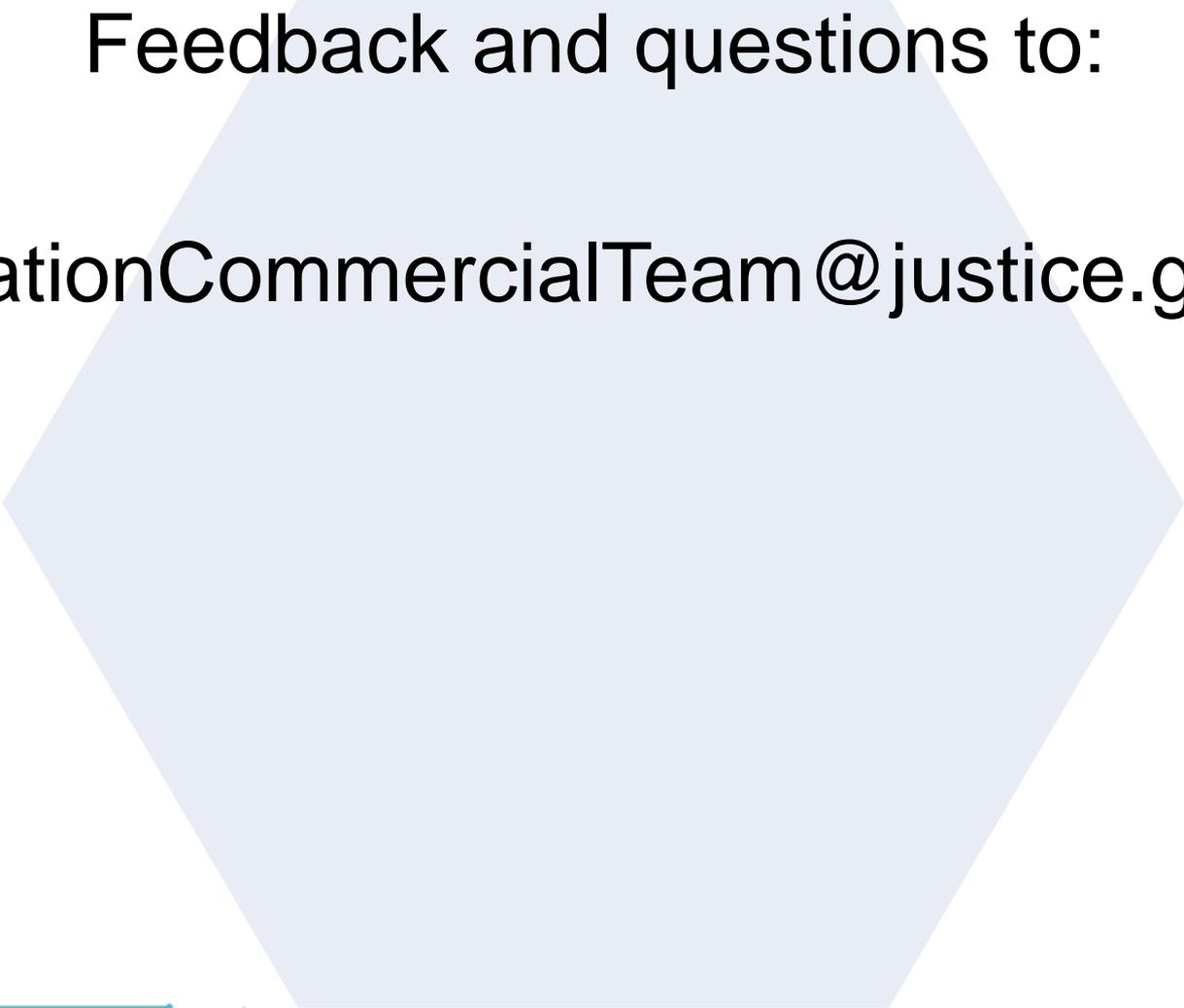


Feedback and questions



Feedback and questions to:

ProbationCommercialTeam@justice.gov.uk



Legal Disclaimer

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

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