

**TRANSFORMING REHABILITATION PROGRAMME  
PAYMENT MECHANISM**

This document is intended as an explanatory note only and is not legally binding.

**DRAFT**

**Date of Draft: 04/03/2014 12:00**

# PROTECT

## Transforming Rehabilitation Programme – Payment Mechanism Design Overview

### 1. EXECUTIVE SUMMARY

- 1.1 This overview document sets out how MoJ will pay for services that will be delivered under the Transforming Rehabilitation Programme and the rationale behind the chosen approach.
- 1.2 The payment mechanism for services provided to the offender allocated to the provider is comprised of two elements: Fee For Service (FFS) and Payment by Results (PbR). The FFS is primarily paid for mandated activities that deliver the sentence of the court and licence conditions and includes Through the Gate (TTG) services and Rehabilitation Activity Requirements (RAR). PbR is paid for the achievement of statistically significant reductions in reoffending against the baseline historical level.
- 1.3 The total available funding in any year, known as the Maximum Annual Payment (MAP), has been set on a Contract Package Area (CPA) basis for each year of the contract. Providers are required to bid a FFS for each year of the contract. The difference between the FFS bid and the MAP will form the basis of the amount available for PbR, relating to the quarterly cohorts and annual cohort that are established in that year.
- 1.4 Key features of FFS are outlined below and further detail can be found in section 3 of this overview document:
  - FFS covers the delivery of sentence requirements and includes TTG and RAR.
  - Providers will bid against a predicted annual volume range, weighted for sentence type and, in the case of Unpaid Work, the length of the requirement. This is known as the Weighted Annual Volume (WAV).
  - Providers' FFS bids are expected to include a 'learning curve discount' to drive continuous improvement.
  - The FFS for the predicted WAV will be an annual amount paid in twelve equal payments made monthly in arrears.
  - At the end of each contract year, the FFS paid on the predicted WAV is reconciled to the actual WAV recorded, with a retrospective payment or deduction applied if the actual WAV is shown to have been outside of a set tolerance range around the predicted WAV.
  - Service credits will be applied for failure to deliver the mandatory services to a specified time and quality, in line with the performance framework.
- 1.5 Key features of PbR are outlined below and further detail can be found in section 6 of this overview document:
  - PbR will be paid based on a binary metric (the reoffending rate, i.e. the percentage of offenders in a cohort that reoffend) and a frequency metric (the frequency of reoffending, i.e. the number of reoffences per reoffender).
  - The offenders allocated to a provider will be grouped in quarterly cohorts for the binary metric.
  - Payments on the binary metric will be made only for achieving statistically significant reductions in reoffending, with deductions applied to the FFS for underperforming (i.e. increasing the rate of reoffending beyond a statistically significant point) and higher payments for further improvements in reducing the rate of reoffending.
  - Annual top-up payments will be available on the binary metric for statistically significant improvements against annualised targets.
  - The offenders allocated to a provider will be grouped in annual cohorts for the frequency metric.
  - There is a "hurdle", set at the binary reoffending baseline, which must be achieved in order for any payment to be made on the frequency metric.
  - Payment on the frequency metric will be made if there is any reduction in reoffending (provided the binary hurdle is also passed) and deductions will be applied for any increase in reoffending.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- There will be significant financial deductions to the FFS and/or a termination right for MoJ for large or repeated increases in reoffending rates.
- 1.6 Providers may purchase services for offenders within their cohort from other providers. A rate card, using the prices stated in their bids, will govern the prices for these services.
- 1.7 The NPS will purchase delivery of certain services from providers for offenders that the NPS manages. Payment will be made on a Fee for Use (FFU) basis. Prices for these services will be governed by a rate card. Prices for any elective services (i.e. those not already included on the rate card) will be agreed between the NPS and the provider. The same approach will be taken by commissioning bodies, such as other government departments, which also wish to purchase services from CRCs.

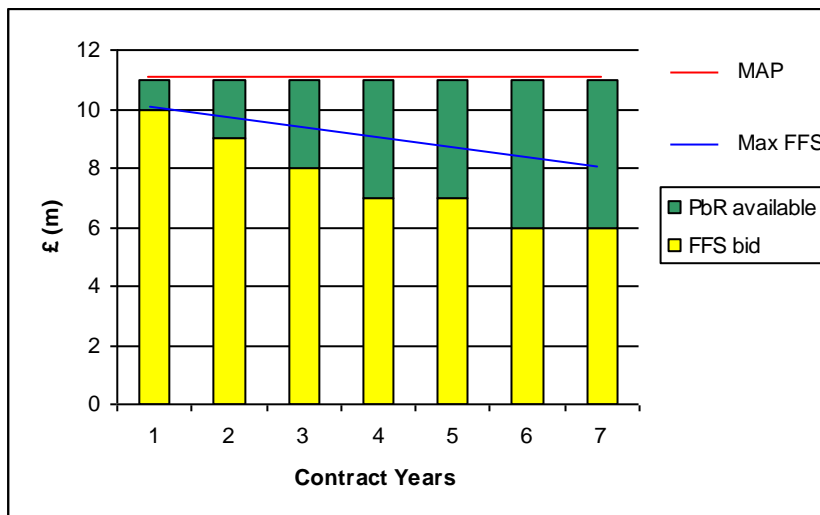
# PROTECT

## Transforming Rehabilitation Programme – Payment Mechanism Design Overview

### 2. MAXIMUM ANNUAL PAYMENT

#### What is the MAP?

- 2.1 The MAP is the total available funding in any year and has been set on a CPA basis for each year of the contract.
- 2.2 The MAP is designed to flex in line with changes in volume over the course of the contract. More detail on how this works can be found in Section 5 of this overview document.
- 2.3 Providers are required to bid a FFS for each year of the contract. The difference between the FFS bid and the MAP will determine the maximum amount available for PbR, relating to the quarterly cohorts and annual cohort that are established in that year.
- 2.4 A Maximum Biddable FFS has been set on a CPA basis for each year of the contract. This is designed to ensure there is an appropriate minimum amount available for PbR payments to ensure providers are incentivised to reduce reoffending.
- 2.5 There will be a bedding-in period that will take place prior to the start of PbR measurement. Following that period, quarterly (and annual) cohorts will be formed. Following the formation of each quarterly cohort, an additional period of 12 months is required for the purpose of measuring reoffending, plus a six-month period to allow offences to be processed by the courts. An additional period is then required for the reoffending rate and associated payment or deduction to the FFS to be calculated.
- 2.6 Bids will determine the PbR available for payments to be made on the reoffending observed for the cohorts established in that year.
- 2.7 If, for example, a MAP of £11m and a Maximum Biddable FFS of £10m were set for each year of the contract in a given CPA, the bid profile might look like this:

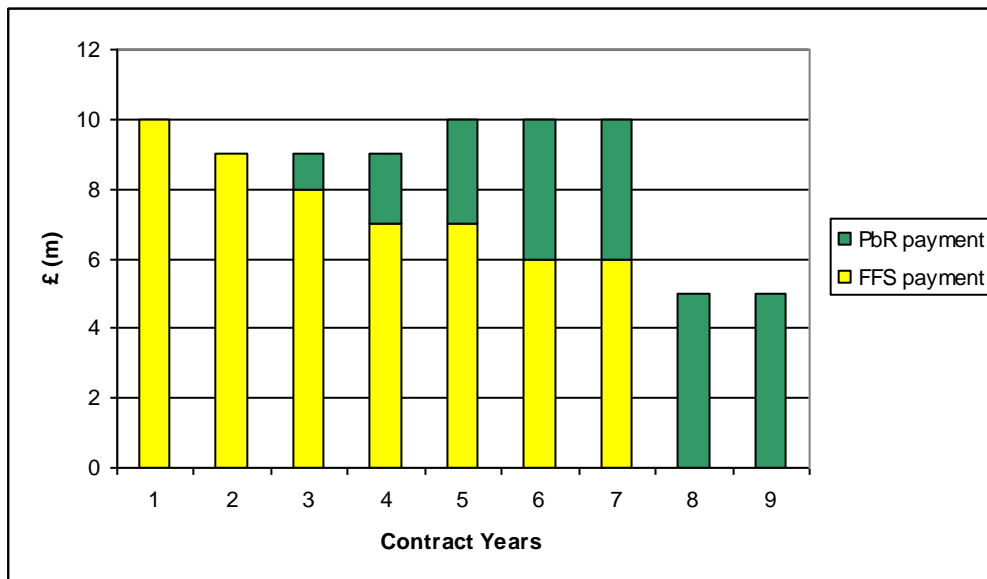


- 2.8 This shows the FFS bid for the services to be delivered in each year, and the amount placed 'at risk' (i.e. available for PbR) related to the cohorts established in each year. Due to the time lag required for measuring and calculating reoffending, a PbR payment for a cohort established in Year 2 would be made in Year 4.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- 2.9 If, in this example, actual volumes were to match those projected and the provider were to successfully reduce reoffending to achieve the maximum available PbR payment in each year, the cashflow profile would look like this:



- 2.10 The profile of the Maximum Biddable FFS assumes a level of efficiency and providers' FFS bids are expected to include a further 'learning curve discount' (i.e. their FFS bid should decrease year on year). This helps drive continuous improvement by making a progressively larger proportion of the MAP available for PbR payments. Providers are therefore able to propose how, over time, they intended to balance FFS and PbR payments. This is subject to a requirement that any discount a provider includes in their bid (relative to the maximum biddable FFS) cannot reduce over time. For example, if a bid in Year 3 is £5m below the maximum biddable FFS, the bid in Year 4 must be at least £5m below the maximum biddable FFS.
- 2.11 In order to achieve the same level of profitability year on year providers will be required to either improve their efficiency whilst achieving a steady level of reduction in reoffending; or improve the reduction in reoffending to achieve a greater profit through the PbR and offset the reducing FFS amounts.
- 2.12 The overall amount of the MAP that bidders will have "at risk" for performance on the contracts will depend on their bid and how much they expect to reduce reoffending. However, the MoJ's proposed overall minimum "at risk" requirement for most years of the contract is approximately 40% of the MAP. This is made up of an average of 14% of possible PbR payments (this varies depending on the CPA), approximately 5% possible deductions relating to increases in reoffending (before termination would be triggered) and possible deductions for poor performance on service delivery of up to 20%.
- 2.13 The MAP for Year 1 (FY14/15) will include some funding for the Voluntary Early Departure Scheme (VEDS). Bidders will, based on the data provided on current staffing levels in each CPA, include in their bids for Year 1 the number of redundancies they plan to make and the costs associated with those redundancies.
- 2.14 In FY 14/15, prior to the start of the contract, MoJ will make redundancies in senior management staff and back office administrative staff. Further information will be provided to bidders on how decisions on these redundancies will be taken by MoJ.
- 2.15 After the start of the contract, a reconciliation will be undertaken to reduce the FFS paid in Year 1 in light of the redundancies that have already taken place prior to the start of the contract. The MAP will also be reduced in line with this reduction in FFS. This

**PROTECT**  
**Transforming Rehabilitation Programme – Payment Mechanism Design Overview**

reconciliation will take place alongside the post-sale valuation, which assesses any changes to the assets in each CRC.

**3. FEE FOR SERVICE**

**What is the FFS?**

- 3.1 The FFS is primarily paid for mandated activities that deliver the sentence of the court and licence conditions as specified in the contract. Providers will be free to determine their cost and operating models for delivering these services,
- 3.2 The FFS includes the delivery of community order and suspended sentence requirements, including RAR, as well as licence and supervision conditions and TTG services for offenders upon reception and discharge from custody.
- 3.3 The FFS is a fixed annual payment, paid in twelve equal instalments, monthly in arrears for the delivery of all services against the predicted WAV for the coming year.

**4. WEIGHTED ANNUAL VOLUME**

**What is the WAV?**

- 4.1 The WAV is a single measurement of volume based on the number of offender starts and, in the case of Unpaid Work, the sentence requirement length, and comprises differently weighted service requirements.
- 4.2 Each service requirement is weighted according to the level of resource typically required to deliver it. As such, an increase in the number of a highly weighted start type would mean a greater increase in the overall WAV than if there was a corresponding increase in the number of a lesser weighted start type. This approach ensures that providers are suitably rewarded for changes both in volume and in the activity and effort required to deliver the associated services.
- 4.3 Whilst providers will be afforded maximum flexibility to deliver outcomes, certain sentence requirements will require more resource than others, irrespective of the way they are delivered, according to the type of sentence. Factoring in the resource related to the requirement type means that “sentencing trend risk” (i.e. changes in the mix of sentences passed) as well as overall “volume risk” is appropriately shared.
- 4.4 Weightings have been developed on a national basis and will apply to all CPAs. The weightings established will apply throughout the term of the contract.
- 4.5 The WAV captures the potential net changes in overall resource requirements for different sentence volumes and types and is defined at as high a level as possible so that this does not unduly influence the way in which providers deliver individual sentences.

**What are the WAV service requirements and weightings?**

- 4.6 The WAV is comprised of the following service requirement categories:
  - Manage the Community Order (CO)
  - Manage the Suspended Sentence Order (SSO)

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- Manage the Custodial and Licence and Post Sentence Supervision Period (Offenders sentenced to less than 12 months)
- Manage the Custodial and Licence and Post Sentence Supervision Period (Offenders sentenced to more than or equal to 12 months)
- Unpaid Work (otherwise known as Community Payback)
- Accredited Programmes (non-Sex Offender Treatment Programmes (SOTP))
- All other interventions (i.e. support the delivery of Drug, Alcohol and Mental Health Treatment requirements)
- Through The Gate services (including reception services, discharge services for remand prisoners, and co-ordination of joint release planning)

4.7 Weightings for each of these service requirements are derived from historic cost data and weighted in proportion to each other.

4.8 The table below summarises the WAV weightings:

| Service requirement   | Weighting for 1 unit of provision | Unit               |
|---|-----------------------------------|--------------------|
| Manage the sentence CO  | 1.00                              | per offender start |
| Manage the sentence SSO   | 1.00                              | per offender start |
| Manage the Custodial and Licence and Post Sentence Supervision Period < 12 months | 1.35                              | per release        |
| Manage the Custodial and Licence and Post Sentence Supervision Period ≥ 12 months | 3.15                              | per release        |
| Unpaid Work   | 0.007                             | per hour           |
| Accredited Programmes (non-SOTP)  | 2.88                              | per offender start |
| Drug Rehabilitation Requirement   | 0.99                              | per offender start |
| Alcohol Treatment Requirement   | 0.99                              | per offender start |
| Mental Health Treatment Requirement   | 0.99                              | per offender start |
| TTG: Reception Services   | 0.08                              | per reception      |
| TTG: Persons on Remand  | 0.05                              | per release        |
| TTG: Co-ordination of joint release planning                                      | 0.05                              | per release        |

4.9 Unlike the other service requirements, which are measured based on the number of offender starts, receptions or releases, and whose weighting reflects an average requirement length, unpaid work is measured per hour. The weighting for unpaid work will therefore be multiplied by the number of hours specified in each unpaid work requirement.

#### **How are offender transfers reflected in the WAV?**

4.10 The number of offenders that transfer into or out of CPAs, including into and out of England and Wales, will be monitored along with the volume of services provided or not required to be provided for transferred offenders. This will be reflected in the calculation of the actual weighted volume of services delivered by providers in that year (this is known as the Actual WAV).

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- 4.11 For the purposes of performance management, transferred offenders will be monitored as part of the CPA to which they have transferred, from the point at which they are transferred.
- 4.12 Transferred offenders will continue to form part of the PbR cohort to which they were originally allocated.
- 4.13 Providers are able to purchase additional services from other CRCs to be delivered to offenders that are in their PbR cohorts but have subsequently transferred to a different CPA. The prices for these services will be governed by a rate card, which is included in providers' bids and can be updated at any time.

#### **How are TTG services reflected in the WAV?**

- 4.14 TTG services comprise three components in the WAV: Reception Services, Persons on Remand, and Co-ordination of joint release planning. These reflect the specified services to be delivered to offenders upon reception and prior to release from custody by the lead host or host CRC, i.e. the CRC that has one or more resettlement prisons designated to it and has responsibility for delivering services to offenders in those prisons.
- 4.15 These TTG components will be measured through the WAV based on the number of receptions and releases, with specific requirements attached to each component. The composition of the WAV reflects the allocation of these responsibilities between the CRCs.
- 4.16 Those elements of the TTG services required to be completed by the home CRC, i.e. the CRC with responsibility for managing the offender's transition from custody into the community, are captured in the appropriate 'Manage the Custodial and Licence and Post Sentence Supervision Period' WAV category.

## **5. VOLUME CHANGES**

#### **How is volume risk mitigated?**

- 5.1 Volume risk, i.e. the risk that providers are required to deliver services for a larger or smaller number of offenders than expected, is a serious concern for both MoJ and providers, and therefore the risk needs to be shared between MoJ and providers.
- 5.2 The FFS will therefore be a fixed price for services based on a predicted WAV within a tolerance range, with an adjustment where the actual WAV falls outside of that predicted tolerance range.

#### **How will the WAV be predicted?**

- 5.3 WAVs have been projected on a CPA basis for each contract year. These projections will be refreshed using updated information, prior to bid submission. These projections are based on historical data and include estimates of the additional offenders that will receive services under new legislation that will make probation services statutory for offenders with custodial sentences of less than 12 months.
- 5.4 In Years 1 and 2 of the contract, these projections will be used to determine the FFS. From Year 3 onwards, a new prediction will be produced within three months prior to the contract year commencement. This prediction will be based on the WAV recorded in the previous four quarters for which data is available. This prediction will determine the FFS for the forthcoming contract year.



## PROTECT

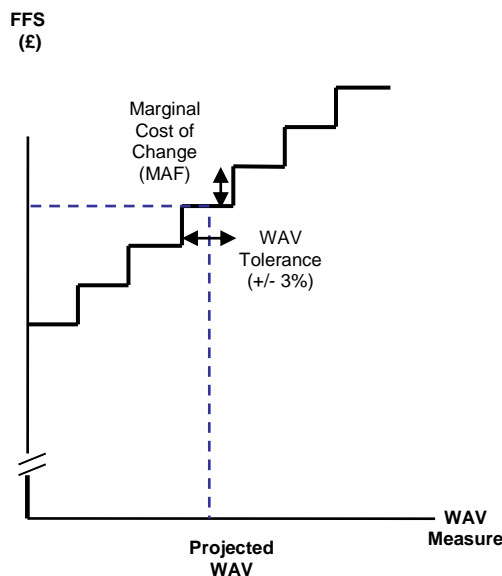
### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

#### How will the FFS be determined?

- 5.5 If the predicted WAV is shown to be within the tolerance range of the originally projected WAV (i.e. at the time of the bid), the FFS bid is paid for that contract year. Otherwise, the Marginal Adjustment Factor (MAF) is used to adjust the FFS to reflect the estimated marginal cost of delivery.

#### What are the WAV tolerance ranges?

- 5.6 The WAV tolerance ranges represent defined ranges of the WAV, within which the fixed FFS will not be adjusted for increases or decreases in the actual volume of services. Having a WAV tolerance range within which the FFS will not change acts to share risk between MoJ and providers.
- 5.7 The size of the WAV tolerance ranges represents the level of volume risk passed to the provider. Providers take the risk of volumes changing within the WAV Tolerance ranges; MoJ takes the risk between the ranges.
- 5.8 There is a tolerance range of  $\pm 3\%$  around the projected WAV for each CPA in each year. This is designed to find the optimal balance between a number of competing factors, namely:
- Ensuring appropriate sums are paid for specified volumes of services;
  - Minimising additional risk pricing from bidders as a result of their lack of influence on volumes;
  - Minimising the provider's incentive to influence volumes through increasing reoffending rates; and
- 5.9 Minimising the need to make regular adjustments to payments and reducing the amount of contract management activity required.



- 5.10 The MAF includes estimated proportions of fixed, variable and semi-variable costs that are expected to be incurred as a result of a change in WAV.
- 5.11 Variable costs are the front line consumables, such as staff overtime, that are expected to have increased or decreased within the contract year as a result of the WAV change recorded. Variable costs are estimated to comprise 10% of the cost of delivery.
- 5.12 Semi-Variable costs are, for example, the number of staff salaries that are expected to increase or decrease in the coming contract year as a result of changes to the volume

**PROTECT**  
**Transforming Rehabilitation Programme – Payment Mechanism Design Overview**

levels predicted. Semi-variable costs are estimated to comprise 70% of the cost of delivery.

- 5.13 Fixed costs are, for example, the costs incurred by leasing a building, which are expected not to change as a result of changes to the WAV. Fixed costs are estimated to comprise 20% of the cost of delivery.
- 5.14 If the predicted WAV, i.e. the WAV produced just prior to the start of a contract year, is shown to be outside the tolerance range of the WAV that was originally projected for a CPA, an adjustment to the FFS bid is made using the MAF. .
- 5.15 As referenced above, there is a +/- 3% tolerance range around the projected WAV for each CPA in each year. Outside of this tolerance range, or WAV Band, there are additional WAV Bands, each representing a range in the weighted volume of services required to be delivered. Each WAV Band is equal in width (i.e. the mid-point of each respective WAV Band is an additional +/- 6% difference from the mid-point of the projected WAV Band). The FFS payment that relates to each WAV Band reflects the estimated change in variable costs and semi-variable costs that occur as a result of the increase or decrease from the projected WAV.
- 5.16 For example, the originally projected WAV for Year 5 is in Band 6. However, the predicted WAV produced two months prior to the start of Year 5 is in Band 7. The FFS bid for Year 5 was £100,000. An estimated 20% is variable costs, an estimated 70% is semi-variable costs and an estimated 20% is fixed costs. The difference between the mid-points of Band 6 and Band 7 is 6%. The FFS due to be paid in Year 5 is therefore:

$$(\text{£}100,000 \times 10\% \times 106\%) + (\text{£}100,000 \times 70\% \times 106\%) + (\text{£}100,000 \times 20\%) = \text{£}104,800$$

**How will the WAV be reconciled?**

- 5.17 At the end of every contract year, the predicted WAV used to determine the FFS payable in that year will be reconciled to the actual WAV recorded over the year.
- 5.18 A retrospective payment or deduction will be applied if, at the end of the contract year, the actual WAV is shown to have been outside the predicted tolerance range. The adjustment amount is confirmed within four months after the end of the contract year.
- 5.19 The size of any FFS adjustment made as part of the annual reconciliation process is based on the estimated marginal cost of service delivery. The change in variable costs therefore determines the payment or clawback amount and this is expressed as a percentage of the FFS that was paid in that year.
- 5.20 For example, a FFS of £100,000 is paid in Year 7 based on a predicted WAV in Band 6. During the reconciliation process, the actual WAV is shown to be in Band 7. An estimated 10% of the FFS is variable costs and the difference between the mid-points of Band 6 and Band 7 is 6%. The adjustment amount is therefore:

$$\text{£}100,000 \times 10\% \times 6\% = \text{£}600$$

- 5.21 Payments or deductions to reflect WAV changes outside of the tolerance range will be made through an adjustment to the next FFS payment that is due after the annual reconciliation process has taken place.
- 5.22 Where the WAV is two or more WAV bands outside the predicted tolerance range for more than three consecutive months within the same contract year, it may be agreed at the MoJ's discretion that it is more appropriate to make the monthly payments at the level corresponding to the WAV Band in which the WAV is actually falling, rather than the predicted level, to reduce the expected size of adjustments from the annual reconciliation of volumes, and avoid under or overpaying for services in year.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

#### **How will the MAP change if volumes change?**

- 5.23 The MAP will change to reflect increases and decreases in volume of offenders. The FFS will be adjusted following the process described above.
- 5.24 Adjustments to the FFS are applicable for up to a 50% increase in WAV relative to the projected WAV. For increases beyond 50%, contract renegotiation will be triggered, for the parties to agree amendments to the charges. WAV adjustments to the FFS are also applicable for up to a 30% decrease in WAV relative to the projected WAV. For decreases beyond 30%, contract renegotiation will be triggered.
- 5.25 It is possible that a change in WAV will not align with a change in the number of offender starts in PbR cohorts. For example, an increase in the number of offender starts in PbR cohorts could coincide with a reduction in the WAV due, for example, to a decrease in the number of Accredited Programmes (non SOTP) being included in sentence requirements.
- 5.26 The base maximum amount available for PbR in any given contract year is determined by the difference between the FFS bid and the MAP in that contract year. This amount defines the level of reoffending at which payments will be capped in each year.
- 5.27 If the number of offender starts in PbR cohorts is different to the projected number of offender starts in PbR cohorts in any given year, the maximum amount available for PbR will be different to the base maximum amount. In these circumstances, the amount available for PbR is calculated using the following formula:
- $(\text{MAP} - \text{FFS bid}) \times (\text{actual number of PbR starts} / \text{projected number of PbR starts})$
- 5.28 This approach ensures that the reduction in reoffending at which PbR payments were due to be capped in that contract year continues to be preserved. It also ensures that the same incentives for reducing reoffending apply even when there is a change in the number of offender starts in PbR cohorts.
- 5.29 Adjustments to the maximum amount available for PbR are applicable for up to a 50% increase in offender starts in PbR cohorts relative to the projected number of offender starts in PbR cohorts..

## **6. PAYMENT BY RESULTS**

#### **What is PbR?**

- 6.1 The PbR element of the payment mechanism is designed to incentivise bidders to continuously innovate and improve performance throughout the life of the contract and reduce reoffending rates significantly beyond historic levels.

#### **How will reoffending be measured?**

- 6.2 PbR measurement will be based on a series of offender “cohorts”. These are the groups of offenders whose reoffending will determine the providers’ success or otherwise at reducing reoffending rates. Cohorts will be built up on a quarterly and annual basis and will include:

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- all offenders released from a custodial sentence;
- all offenders who begin a community order (CO);
- all offenders who begin a suspended sentence order (SSO)

The cohorts will exclude:

- offenders who do not receive one of the above disposals;
- offenders allocated to the NPS (i.e. offenders deemed as “high risk of harm” in the initial risk assessment, current MAPPA-eligible offenders, a small number of public interest cases, foreign national offenders subject to deportation);
- persons on remand;
- offenders sentenced to stand alone Community Payback;
- offenders sentenced to stand-alone electronic monitoring;
- offenders sentenced to electronic monitoring and Community Payback only;
- offenders sentenced to SSOs with no requirements.

- 6.3 For offenders released from a custodial sentence, measurement of reoffending will commence on the date the offender is released from custody.
- 6.4 For offenders sentenced to a CO or SSO, measurement of reoffending will commence on the date of sentence. Reoffences that occur on the date of sentence onwards are included in the measured reoffending rate for the provider in whose PbR cohort that offender is ultimately allocated.
- 6.5 The MoJ is committed to only rewarding providers in full where there is complete desistance from crime by the offenders allocated to them. However, the payment mechanism will also take into account each further offence so that providers cannot neglect the most difficult offenders and those who have already reoffended, and so that every victim of crime is taken into account in providers’ reward payments. Therefore there will be two metrics for reoffending used to calculate the PbR payment:
- **Binary metric** = measures the percentage of offenders within a quarterly cohort that are convicted of an offence within a 12 month period
  - **Frequency metric** = measures the average number of re-offences per re-offender committed within an annual cohort within a 12 month period
- 6.6 A single cohort will be constructed on a 3 month basis in each CPA for the binary metric and on a 12 month basis in each CPA for the frequency metric. The binary metric will also be subject to an annual top-up calculation based on a 12 month cohort.
- 6.7 The data used to define annual cohorts is the aggregate of the four quarterly cohorts that together comprise the annual cohort. Cohorts will not be segmented by the type of sentence or offender, although statistics for each type of sentence and offender will be collected for monitoring purposes.
- 6.8 In instances where an offender’s risk profile escalates to a point that they need to be transferred to the NPS, the offender will remain within the provider’s quarterly and annual cohort for PbR measurement and payment purposes.
- 6.9 A proven re-offence will be counted as any offence committed within a 12 month follow-up period, which then attracts a court conviction or caution within that 12 month follow-up period or within a further six month waiting period to allow for cases to work their way through the courts.
- 6.10 To maintain consistency and maximise transparency, offences will be counted using the National Statistics ‘proven reoffending’ measure and therefore counted as proven re-offences if they meet all of the following criteria:

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- They were committed in England or Wales.
- They were prosecuted by the police
- They are recordable on the Police National Computer (PNC)
- They are proven through a caution or court conviction. Offences that are not proven, or which meet with other responses from the Criminal Justice System, are not counted.
- The offence is not a breach offence, i.e. breach of a court order.

#### **How will PbR payments be allocated?**

- 6.11 PbR payments will be allocated on the basis of performance against the binary metric and the frequency metric. In order to ensure that maximum access to the PbR funding available will be achieved by optimal achievement of both the binary and frequency metrics, 50% of the PbR funding available will be made available in relation to each metric.
- 6.12 However, to receive any frequency PbR payment, a provider will have to have reached the binary hurdle, i.e. have at least maintained performance on the annual binary metric at the historic baseline level within the CPA, regardless of performance against the frequency metric. This reflects the importance placed on achieving complete desistance from reoffending.

#### **How will offender mix be taken into account?**

- 6.13 The actual binary reoffending rates for each CPA will be measured and adjusted to account for changes in the offender mix. Offender Group Reconviction Scale (OGRS) Scores for the cohort will be used to make this adjustment.
- 6.14 OGRS scores estimate the probability that offenders with a given history of offending will be resanctioned (reconvicted or given a caution, reprimand or final warning) for any recordable offence within one year of sentence, or release if sentenced to custody.
- 6.15 OGRS calculates this estimate based on static risk factors: age, gender, criminal history and type of current offence. As OGRS scores are based only on basic demographic and criminal record data, they can be calculated for all offenders (subject to successful data matching), and therefore are suitable for use in estimation of the aggregate risk of groups of offenders.

#### **How will reoffending baselines be set?**

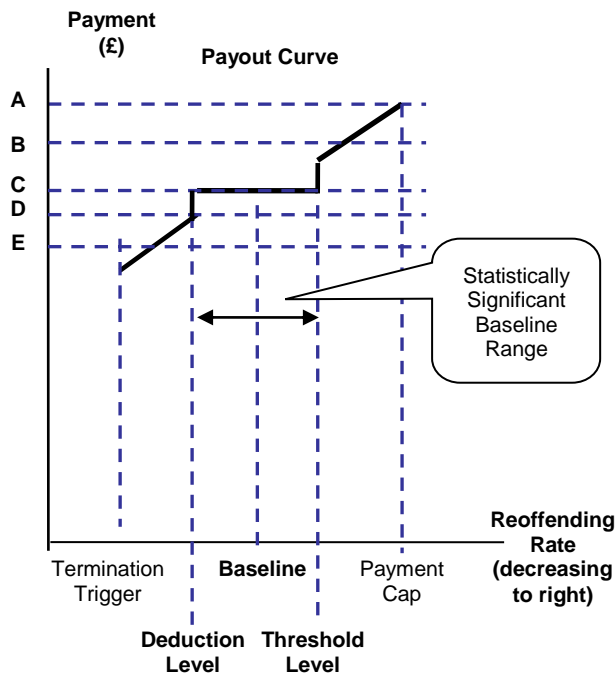
- 6.16 A baseline binary reoffending rate for each CPA will be set based on reoffending figures calculated as an average for the most recent four quarters for which data is available. These reoffending figures are published along with an explanation of how the calculations were performed. The statistics for 2010 are available as indicative figures. The statistics for 2011, which will be used to set the reoffending baseline, payment and deduction thresholds, and termination trigger for each CPA, are due to be published shortly. .
- 6.17 The baseline and termination trigger for the frequency metric for each CPA will be set prior to the start of the contract, also using the 2011 reoffending figures. The use of an annual rather than quarterly metric is due to the volatility of the quarterly metric as a result of the disproportionate impact small numbers of highly prolific offenders can have on the frequency metric within a small quarterly cohort.

#### **How will binary reoffending be measured?**

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- 6.18 For the binary reoffending metric, thresholds have been set at statistically significant points (SSPs) that identify the appropriate minimum changes to the reoffending rate that would need to take place before any PbR payments are made to the provider.
- 6.19 These thresholds have been set based on an 80% confidence interval; this means that, based on historic variation, there is an 80% probability that measured reoffending would fall within the thresholds if there were no changes in underlying performance. There is a 20% probability that measured reoffending would fall outside of this range; 10% above and 10% below. This helps give MoJ confidence when it makes a payment that it is rewarding a genuine achievement of reduced reoffending.
- 6.20 The diagram below sets out the binary payment curve:



- 6.21 The higher SSP represents the minimum reduction in reoffending rates expected by the MoJ (Threshold Level), whilst the lower SSP represents the level of reoffending rates significantly higher than the baseline and therefore considered unacceptable (Deduction Level). A reoffending result higher the Deduction Level will result in financial deductions to the FFS.
- 6.22 PbR payments for the binary metric will therefore only be made through the achievement of a demonstrably significant improvement in reoffending over the reoffending baseline.
- 6.23 These thresholds are intended to discourage providers from allowing any increase in the reoffending rate through disinvestment in services as this would lead to financial deductions.

#### How will the annual and quarterly binary metrics interact?

- 6.24 The payment mechanism seeks to balance the need to give providers certainty regarding their cashflow as early as possible with the desire to only pay for genuine improvements in reoffending rates. Thresholds for quarterly cohorts are potentially higher than they would be for annual cohorts where the cohort is small and there is greater variability in the level of reoffending for the quarterly cohort relative to the larger annual cohort.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- 6.25 Where a provider does not meet the comparatively high quarterly cohort thresholds for the quarterly binary metric but has still made a statistically significant impact on reoffending rates over the year (i.e. would have met the lower annual cohort threshold), it is appropriate that the provider is paid for this as they have achieved a result.
- 6.26 Therefore the MoJ will “top up” the quarterly binary PbR payments made to a provider with an annual binary PbR payment, on the same basis, based on the provider’s annual reoffending rate. This top up will take into account the PbR payments already made on earlier quarterly cohorts in that annual cohort and the total amount available will be capped at the MAP, taking into account any adjustments for changes for volume.
- 6.27 No additional deductions will be made on the annual binary metric but if the level of reoffending is shown to be above the Deduction Threshold on more than one occasion, the MoJ will have the right to terminate the contract.
- 6.28 In addition, an increase in reoffending beyond the Termination Trigger on one occasion, which is set at a 94.5% Confidence Interval from the reoffending baseline, will result in the MoJ’s right to terminate the contract.
- 6.29 The binary payment curve has been designed to incentivise the provider by applying stretching targets for reducing reoffending beyond the Threshold Level. The diagram at 6.20 above sets out the relationship between indicative levels of performance and the associated levels of payment on the binary reoffending metric. These various payment scenarios are further described in the following table.

| Payout Curve Scenario | Description   | Impact on PbR                      | Rationale   |
|-----------------------|---|------------------------------------|---|
| <b>A</b>              | The binary reoffending rate is improved <i>substantially</i> beyond the threshold level | Maximum PbR payment                | A maximum payout is only achieved for a large reduction in reoffending rates. This incentivises providers to continue to innovate to make improvements in reoffending beyond the threshold level.<br><br>This PbR payment is capped at the MAP and adjusted for changes in volume where applicable. |
| <b>B</b>              | The reoffending rate is at the threshold level  | PbR payment                        | For a demonstrable improvement in reoffending rates, some PbR is paid in addition to the FFS.   |
| <b>C</b>              | The reoffending rate is within the statistically significant baseline range             | No PbR payment<br><br>No deduction | For no demonstrable improvement (or deterioration) in reoffending rates, no PbR payment is made and no deductions are taken.  |

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

| Payout Curve Scenario | Description   | Impact on PbR  | Rationale   |
|-----------------------|---|--|---|
| <b>D</b>              | The reoffending rate is higher than the deduction level               | Deduction made to FFS<br><br>Contract Termination (for repeated instances) | For a demonstrable deterioration in reoffending rates on the quarterly binary metric, a financial deduction is recovered. For repeated instances on the annual metric, the MoJ's right to contract termination is triggered.<br><br>This is designed to be of a sufficient level that incentivises providers not to disinvest in services without giving them an uncapped financial risk over the life of the contract. |
| <b>E</b>              | The reoffending rate is substantially higher than the deduction level | Contract Termination   | Unacceptable performance on the annual binary metric will result in the MoJ's right to contract termination.  |

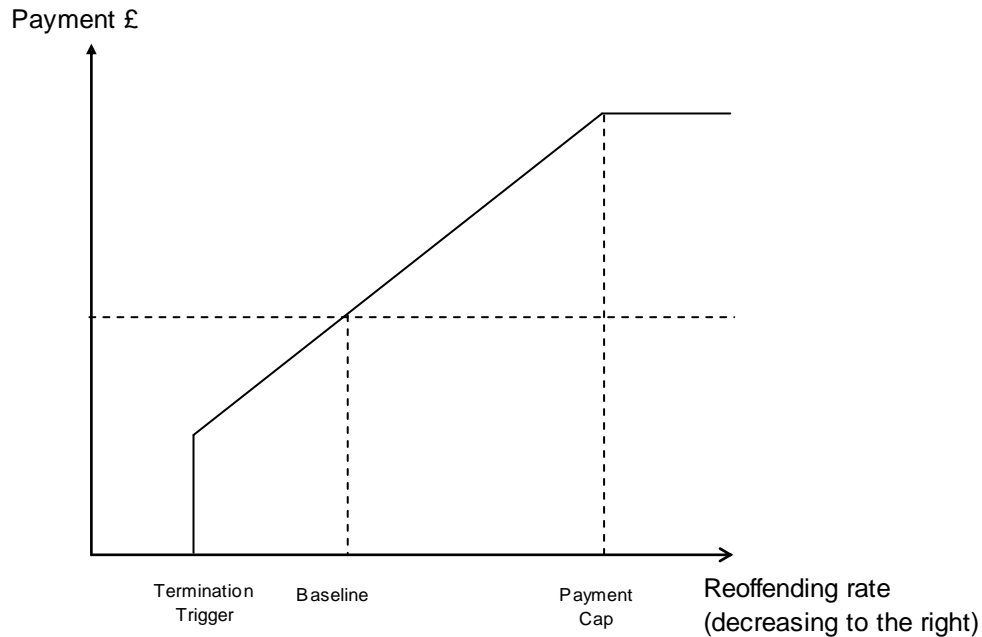
#### How will frequency of reoffending be measured?

- 6.30 For the frequency reoffending metric, no payment and deduction thresholds are proposed. This is because of the inherent volatility in this metric which makes it difficult to distinguish between the effects of provider's interventions and other possible influencing factors.
- 6.31 On the frequency metric, therefore, payments will be made along a continuous upward sloping straight line. This means that providers would be rewarded if there is any reduction in reoffending on this metric (provided the binary hurdle is also passed) and likewise, financial deductions made to the FFS, for any increase in reoffending. A termination trigger has been set at a confidence interval of 99% from the frequency reoffending baseline. Any reoffending result above this would result the MoJ having the right to terminate the contract.
- 6.32 The diagram below demonstrates the relationship between performance and associated levels of payment on the frequency reoffending rate.



# PROTECT

## Transforming Rehabilitation Programme – Payment Mechanism Design Overview



### How are PbR payments calculated?

- 6.33 To ensure that the MoJ retains a proportion of volume risk related to PbR, payments will be adjusted to take account of volumes as follows:
- 6.34 **Binary payout (offenders complete desistance over 12 month period)** = (reduction in reoffending rate) x (unit payment) x (Number of offender starts in the cohort)
- 6.35 **Frequency payout (offenders re-offences over 12 month period)** = (number of offender starts in cohort) x (baseline binary reoffending rate) x (change in frequency reoffending rate) x (unit payment)
- 6.36 The unit payment for achievement on the binary metric is £4,000 per offender that desists from reoffending. The unit payment for achievement on the frequency metric is £1,000 per reoffence avoided.

### When will PbR payments occur?

- 6.37 A 'bedding in' period will take place before the start of PbR measurement. This bedding-in period allows the provider time to establish new processes and begin the transformation process. It also ensures that the impact of new legislation relating to offenders sentenced to less than 12 months can start to build up prior to the start of PbR measurement.
- 6.38 The length of the bedding-in period will depend on the date on which the contract begins, and the gap between the end of the bedding-in period and the start of the next financial / contract year will determine the number of quarterly cohorts that will be built up prior to the first annual cohort, as set out below:
- If the contract start date is 1 Oct 2014, the bedding-in period lasts 6 months (until 31 Mar 2015). The contract year (FY15/16) therefore comprises four quarterly cohorts, for which reoffending is measured and PbR potentially paid on the quarterly binary metric. These four quarters are then aggregated to form an annual cohort, for which reoffending is measured and PbR potentially paid on the annual binary metric and the frequency metric.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- If the contract start date is between 2 Oct 2014 and 1 Jan 2015, the bedding-in period lasts 6-9 months (until 30 Jun 2015). The contract year (FY15/16) therefore comprises three quarterly cohorts, for which reoffending is measured on the quarterly binary metric. These three quarters are then aggregated to form a short year cohort, for which reoffending is measured on the frequency metric. No termination trigger applies to these measurements. There is no annual top-up on the binary metric for the short year cohort.
- If the contract start date is between 2 Jan 2015 and 1 Apr 2015, the bedding-in period lasts 6-9 months (until 30 Sep 2015). The contract year (FY15/16) therefore comprises two quarterly cohorts, for which reoffending is measured on the quarterly binary metric. These two quarters are then aggregated to form a short year cohort, for which reoffending is measured on the frequency metric. No termination trigger applies to these measurements. There is no annual top-up on the binary metric for the short year cohort.
- If the contract start date is between 2 Apr 2015 and 1 Jul 2015, the bedding-in period lasts 6-9 months (until 31 Dec 2015). The contract year (FY15/16) therefore comprises one quarterly cohort, for which reoffending is measured on the quarterly binary metric. This quarter is then added to the following four quarters in the next contract year and aggregated to form an extended annual cohort, for which reoffending is measured on the frequency metric. There is no annual top-up on the binary metric for the one quarterly cohort.

- 6.39 Following the bedding-in period, the time lag to measure PbR outcomes is substantial.
- 6.40 The time lag for the binary reoffending metric to become measurable will be 26 months (including 3 months to form quarterly cohort + 12 months reoffending window + 6 months court waiting time + 5 months for data analysis and calculating payment).
- 6.41 For the frequency metric, this time lag will be 35 months (including 12 months to form annual cohort + 12 months reoffending window + 6 months court waiting time + 5 months for data analysis and calculating payment).
- 6.42 Once the PbR outcomes and payment / deduction amounts are available, the payments / deductions will be included by the provider on the next invoice issued for monthly FFS payment.

#### **What happens to PbR at the end of the contract?**

- 6.43 PbR cohorts will continue to be built up right until the end of the exit period. It is proposed that if the result of a PbR calculation falls after the last day of the exit period, then the amount of the PbR payment will be reduced by dividing the payment amount by 365 and multiplying this by the number of days between the first day of the period during which the relevant cohort was established and the last day of the exit period. This proposal will be discussed with bidders.

## 7. OTHER PAYMENTS AND DEDUCTIONS

### **Can providers purchase services from other providers?**

- 7.1 Providers may purchase services from other providers and a rate card, using the prices included in bids, will govern the prices for these services. Some examples of services providers may wish to purchase include additional rehabilitative services for offenders that have transferred out of a CPA and into another CPA, but who remain in the PbR cohort for the provider in the original CPA.

### **What services will the NPS purchase?**

- 7.2 The NPS will purchase delivery of certain services for offenders within their cohort from providers. Payment will be made on a Fee for Use (FFU) basis and prices for these services will be governed by a rate card. The offenders receiving these services will not form part of the provider's PbR cohort.
- 7.3 Services purchased by the NPS will include the following mandated services:
- Accredited Programmes – Non SOTP
  - Unpaid Work
- 7.4 As WAV weightings are already defined for these services, unit prices for these services will be produced using these weightings and the FFS bids for each year in which these services are delivered, to create the first part of the NPS rate card.
- 7.5 Where there are existing services which the NPS has the discretionary option of purchasing from a provider, but where there is no WAV weighting or unit already defined, prices for these services will be governed by the second part of the NPS rate card. These prices will be the same as those stated on the rate card that governs purchases between CRCs. However, if the CRC can demonstrate that additional costs would be incurred by delivering the service (i.e. it is more expensive to deliver these specific services to high-risk offenders, which are managed by the NPS, than to medium or low risk offenders, which are managed by CRCs), a higher price may be negotiated between the NPS and the CRC.
- 7.6 Services that will be included on the CRC-CRC rate card (which is the same as the second part of the NPS rate card) are: home resettlement services (employment, accommodation and finance/debt), senior attendance centres, and victim-offender conferencing. Other rehabilitative services, such as mentoring schemes, will also be included on the rate card with corresponding prices.
- 7.7 Where there are other services that have not yet been identified, known as elective services, the NPS will negotiate a price with the CRC.
- 7.8 The same approach will be taken by commissioning bodies, such as other government departments, which also wish to purchase services from CRCs.

### **How will payments for these services purchased by the NPS be made?**

- 7.9 A FFU amount, including mandated and discretionary services to be delivered to the NPS in each CPA, will be projected two months prior to the commencement of each contract year.
- 7.10 Payments will be made monthly in arrears based on the projected FFU and an annual reconciliation will take place at the end of the year. This will reflect the actual services delivered by providers and the charges associated with those services.

## PROTECT

### Transforming Rehabilitation Programme – Payment Mechanism Design Overview

- 7.11 MoJ can require the provider to issue its invoices directly to the relevant commissioning body. Purchases by commissioning bodies will be invoiced on a monthly basis.

#### **How will performance be managed?**

- 7.12 A performance framework will work alongside the payment mechanism to ensure robust management of the contracts. Service credits will be applied for failure to deliver to specified standards. These service credits will be calculated quarterly and applied to the next FFS payment due following calculation.

#### **How will estates costs be reflected?**

- 7.13 Estates costs incurred by providers will be charged by MoJ on a monthly basis in separate invoices. These amounts will be deducted from the FFS payments that are made monthly to providers.

#### **How will ICT costs be reflected?**

- 7.14 The approach to ICT costs will be confirmed at a later date.

#### **How will changes to pension contributions be reflected?**

- 7.15 As part of the annual reconciliation process, any change in pension contributions, required as a result of the triennial actuarial review of the pension scheme, will be reflected through an additional payment or deduction added to the FFS adjustments paid over the remainder of the contract year.

#### **Will indexation apply?**

- 7.16 The GDP deflator will be the index used for reflecting inflation. The date of indexation will occur on the 1 April of each year.