



To: Nigel Nuttall, Senior Responsible Owner for the Category D Expansion Programme
From: Dr Jo Farrar, Second Permanent Secretary of the Ministry of Justice; and
Nick Smallwood, Chief Executive Officer of the Infrastructure and Projects Authority

December 2022

Dear Nigel,

APPOINTMENT AS SENIOR RESPONSIBLE OWNER CATEGORY D EXPANSION PROGRAMME

We are writing to confirm your appointment as Senior Responsible Owner (SRO) of the Category D Expansion Programme with effect from 1st October 2021. This letter sets out your responsibilities and the support you can expect from your department and the Infrastructure and Projects Authority.

As SRO, you are directly accountable to the Chief Executive Officer, HM Prison & Probation Service, under the oversight of the Permanent Secretary as Principal Accounting Officer for Ministry of Justice, and the Minister of State for Prisons and Probation.

Your programmes form part of the Ministry of Justice's Portfolio, under the oversight of the Chair of the Portfolio Committee within the tolerances set by the Investment Committee at each approvals point. The project/programme is included in the Government Major Projects Portfolio (GMPP).

You have personal responsibility for the delivery of the Category D Expansion Programme and will be held accountable for the delivery of its objectives, with policy intent and outcomes expected. This encompasses securing and protecting its vision, ensuring that it is governed responsibly, reported on honestly, escalated appropriately and for influencing the context, culture, and operating environment of the programme. You are also responsible for ensuring the ongoing viability of the programmes and recommending the pause or termination if appropriate. Where issues arise which you are unable to resolve, you are responsible for escalating these to the Ministry of Justice's Investment Committee.

You remain accountable to Ministers, as set out in the Civil Service Code, and should deliver the programmes in accordance with the objectives and policy intent as set by Ministers.

In addition to your internal accountabilities, SROs for GMPP projects and programmes are personally accountable to Parliamentary Select Committees. This means that, from the date of this letter, you will be held personally accountable to and could be called by Select Committees to account for and explain the decisions and actions you have taken to deliver the Category D Expansion Programme.

It is important to be clear that your accountability relates only to implementation, within the agreed terms in this letter; it will remain for the Minister to account for the relevant policy decisions and development.

More information on this is set out in [Giving Evidence to Select Committees - Guidance for Civil Servants](#), sometimes known as the Osmotherly Rules. Information on the roles and responsibilities of the SRO are detailed in the Infrastructure and Project Authority's guidance on [the role of the senior responsible owner](#). You should also make yourself familiar with the [Government Functional Standard for Project Delivery](#), the requirements of the Government Project Delivery Framework, and the guidance and requirements for project delivery as set by the Ministry of Justice's Portfolio Management Office.

Time commitment and tenure

This role will require 50% of your time to enable effective delivery of the role and execute your responsibilities in full.

You are expected to undertake this role until achievement of project close, planned for 2026. Progress towards this should be reflected in your personal objectives. Progress towards this will be reflected in your personal objectives. Any changes to the agreed time commitment or tenure of the role, as set out above, will require both departmental and Infrastructure and Projects Authority consent.

Objectives and performance criteria

The overall objectives and vision of the project is to deliver 1320 additional prison places through the expansion of the existing Category D estate, to support the achievement of the 2019 manifesto pledge of 10,000 additional prison places.

As SRO for the Category D Expansion Programme you will support the Ministry of Justice's vision for Environmental Sustainability and Net Zero, this means supporting Ministry of Justice to lead the way in Greening Government, embedding sustainability in everything Ministry of Justice does and using sustainability to support Ministry of Justice's strategic objectives. As part of the prison expansion programme, the Category D Expansion Programme will align with Delivery of "near zero energy" buildings as required by the UK Building Regulations for all public sector buildings and so any new build expansion must be Net Zero Carbon ready, being designed and operated without the need for fossil fuels.

Any proposed changes to scope which impacts on this intent or the realisation of benefits must be authorised by the Ministry of Justice Investment Committee and may be subject to further levels of approval.

Your personal objectives and performance criteria that relate to the programme are:

1. To ensure the additional prison capacity is built to the relevant standards and requirements, on time and within budget

You should ensure that the prison places are delivered on time, to enable first prisoner dates to be met and capacity to be ramped up to full capacity swiftly and reliably, within budget, and that they meet the relevant standards and requirements, including those of HMPPS. You should ensure that the impacts of external risks, including Covid-19, are managed and mitigated as far as possible and ensure transparency and escalation of risks where required to keep delivery on track.

2. To ensure fair and open competition for the management contract of the construction, using the Crown Commercial Service Construction and Associated Service Framework, awarding the contract to allow construction to be completed within the required timeframe and to the right quality standards.

You should ensure that the tendering process supports open and fair competition, and that the successful parties are contracted on time to allow the project to meet delivery dates; and that they are successfully contract managed to deliver the projects objectives, driving value for the taxpayer

3. To assure the mobilisation of the additional prison capacity at each site, to allow first prisoner acceptance within the required timeframe.

Mobilisation is a challenging period. You must ensure that each prison is held to account for mobilising the additional capacity safely, on time and meeting HMPPS's requirements within the set budget and in line with first prisoner acceptance dates or as otherwise agreed by the programme board.

4. Environmental Sustainability and Net Zero Carbon

Delivery of "near zero energy" buildings is required by the UK Building Regulations for all public sector buildings and so any new build expansion must be Net Zero Carbon ready, being designed and operated without the need for fossil fuels. Category D should aim, where practical, to use 70% less energy than the HMP Fosse Way (Glen Parva) reference design, to reduce embodied carbon emissions associated with houseblock construction, targeting a 20% reduction compared to the HMP Fosse Way (Glen Parva) baseline design, and to improve water and waste efficiency in both construction and operation.

The Category D Expansion Programme must comply with Ministry of Justice's technical standards, core requirements and the Ministry of Justice's Sustainable Construction BREEAM policy. The projects should reflect value where feasible (including both value for money and affordability considerations), achieve BREEAM Outstanding for new buildings, but must as a minimum obtain Ministry of Justice mandatory BREEAM credits, meet BREEAM Excellent and deliver at least 10% Biodiversity Net Gain.

You are expected to run your project in accordance with the [Government Functional Standard for Project Delivery](#), the other [Functional Standards](#) as applicable to the programmes and the requirements of the Government Project Delivery Framework, ensuring that the programmes follow best project delivery practices and effective risk management processes.

Extent and limit of accountability

Finance and Controls

HM Treasury spending controls will apply on the basis set out within the department's delegated authority letter. Where the programmes exceed the delegated authority set by HM Treasury, the Treasury Approval Point process will apply, and the details of each approval process must be agreed with your HM Treasury spending team. You should consult departmental finance colleagues on how to go about this.

You should note that where expenditure is considered novel, contentious, repercussive, or likely to result in costs to other parts of the public sector, HM Treasury approval will be required, regardless of whether the programme expenditure exceeds the delegated authority set by HM Treasury. If in doubt about whether approval is required you should, in the first instance, consult departmental finance colleagues before raising with the relevant HM Treasury spending team.

The overall estimated budget, resourcing requirements and tolerances for your programmes will be agreed as part of the approval process. It is expected that you deliver within the agreed cost and deliverability tolerances and report quarterly on these as part of GMPP reporting.

You should operate at all times within the rules set out in [Managing Public Money](#). In addition, you must be mindful of, and act in accordance with, the specific HM Treasury delegated limits and Cabinet Office controls relevant to the Category D Expansion Programme. Information on these controls can be found here: [Cabinet Office controls](#).

Delegated authority

The Category D Programme is delivering 1320 places across 6 sites at a cost of £384.4m.

As part of the departmental annual allocations process, you will be authorised to approve a set level of expenditure each financial year. This will be set out in your annual financial delegation letter from the Chief Executive Officer, HM Prison & Probation Service.

You are authorised to:

- approve expenditure that does not exceed the costs agreed for in year overspend or underspend in line with the project FBC taking into account tolerances set by HMT and optimism bias;
- agree project rescheduling within agreed Sub-Portfolio tolerance periods for agreed milestones, but rescheduling beyond that must be agreed with InvestCo; and
- recommend to the Chief Executive Officer, HM Prison & Probation Service and the Ministry of Justice Investment Committee governance body, the need to either pause or terminate the programme where necessary and in a timely manner.

These authority limits are subject to change and other conditions or tolerances may be set as part of the business case approval and ongoing monitoring processes which you should then operate within.

Where issues arise, which take you outside of these authority limits which you are unable to resolve, you are responsible for escalating these issues to the Chief Executive Officer, HM Prison & Probation Service and the Ministry of Justice Investment Committee.

Appointments

You should appoint a full-time programme director to support you in the management of the programmes and make other appointments as required for the control and delivery of your programmes within your delegated authority.

Governance and assurance

You should pay attention to ensuring effective governance for your programmes, including the establishment of a programme board with appropriate membership and clear terms of reference.

As primary owner, you must ensure that the programmes secure business case approval from the relevant HMPPS Board (Prison Capacity Sub-Portfolio or Estates Sub-Committee) and the Ministry of Justice's Investment Committee and Cabinet Office and HM Treasury. You should also ensure that the programme remains aligned to the strategic outcomes, costs, timescales, and benefits in line with the approved business case as well as monitoring the context within which the programmes are being delivered to ensure they remains valid.

Where a change impacts the scope, costs, benefits, or planned delivery milestones agreed as part of an agreed business case, you are responsible for following the agreed change request approval process and setting a new, approved, business case baseline.

You should ensure that an accounting officer assessment is completed alongside the approval of the Outline Business Case and that this is published on GOV.UK as part of the government's transparency requirements on major projects. You are responsible for bringing to the attention of the accounting officer any material changes in the programmes which could require a new accounting officer assessment to be

completed and published. [Guidance on completing accounting officer assessments](#) for major projects is available from HM Treasury.

Although you are directly accountable for the programmes, you are also expected to support delivery of the department's overall strategic objectives. This means that you are expected to work collaboratively with other SROs and project directors in adjacent projects and programmes and with the Ministry of Justice Portfolio Management Office and Head of Portfolio to manage dependencies, resources, schedules, and funding to support delivery of the overall change the department needs to achieve its strategic objectives.

You should ensure that appropriate and proportionate assurance is in place and agree on the level and frequency of assurance reviews through the maintenance of an integrated assurance and approvals plan. You should develop this plan and its maintenance in collaboration with the Departmental Assurance Coordinator and the Infrastructure and Projects Authority.

Programme status, reporting and transparency requirements

The programmes status at the date of your appointment is reflected in the most recent quarterly return on the programmes to the Infrastructure and Projects Authority and is the agreed position as you assume formal ownership of the programmes.

You are responsible for ensuring the honest and timely reporting on the position of the programme to the Infrastructure and Projects Authority while it remains on the GMPP and for providing reports and information to the Ministry of Justice portfolio management office as required and for submitting business cases and reports to the Key Holder process and relevant boards. Where appropriate, governance will include reference to the Investment Committee, Executive Committee. Information on the programmes will be published annually by the Infrastructure and Projects Authority.

You should monitor and report on status, forecast timescales, costs and benefits, key risks established using the GMPP RAG rating (if appropriate) and dependencies, and ensure that any issues (including any likelihood of exceeding approved tolerances) are reported openly and transparently both within the Ministry of Justice and to the Infrastructure and Projects Authority. Where there are considerations that impact the wider delivery of 20,000 places or fall outside set tolerances, then you will need to escalate to the Senior Sponsor, Gary Badley through the governance of the Prison Capacity Sub-Portfolio Board.

As part of the government's commitment to transparency on major infrastructure projects, you are responsible for publishing on GOV.UK:

- A summary of the accounting officer assessment completed in line with the approval of the Outline Business Case and summaries of any subsequent assessments should they be required;
- A summary of the HM Treasury approved Full Business Case; and
- A close out report after the programmes have completed.

Development and support

As a member of a current cohort of the Major Projects Leadership Academy, you are expected to maintain your continuing professional development as a project leader, including your status as an accredited assurance reviewer. To maintain your accreditation, you will be required to participate in a review at least once every 12 months.

The department will assist you in securing the necessary resources to support the programmes, and will set clear guidance, requirements and standards, which align to the [Government Functional Standard on Project Delivery](#), to enable good governance and effective delivery. You will be part of the department's cohort of major project leaders who will be expected to support each other, share good practice and

lessons learned and to collectively develop solutions. You should liaise with the department's Head of Profession for project delivery to discuss the maintenance and development of your delivery and leadership skills.

The Infrastructure and Projects Authority will be available to you for support, advice, and assurance throughout the programme's time on the GMPP.

Following approval of the business case and entry onto the Ministry of Justice Portfolio, the Portfolio Committee will provide ongoing oversight and support and will take steps to help resolve and escalate risks, issues or constraints that are acting as a blocker to successful delivery.

We would like to take this opportunity to wish you every success in your role as SRO.

Yours sincerely,



Dr JO FARRAR

Second Permanent Secretary of the Ministry with responsibility for project delivery



NICK SMALLWOOD

Chief Executive Officer, Infrastructure and Projects Authority

Appointment Endorsed by:

Antonia Romeo, Principal Accounting Officer of Ministry of Justice: 30 November 2022

CONFIRMATION OF ACCEPTANCE OF APPOINTMENT

I confirm that I accept the appointment of Senior Responsible Owner for Category D Expansion Programme, including my personal accountability for implementation, as set out in the letter above.



NIGEL NUTTALL

7 December 2022