



Probation

Task and Finish Group

Final Report

24 July 2014

Members

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SUMMARY

1. The Cleveland Police and Crime Panel on 22 October 2013 received a report suggesting it appoint a task and finish group to undertake work examining changes to the Probation Service that were being developed at a national level. This report provides the Panel with the findings and consideration of the task and finish group.

BACKGROUND

2. Transforming Rehabilitation: A Strategy for Reform was presented to Parliament in May 2013 as a response to consultation setting out changes to the way in which offenders would be rehabilitated. The reforms included:
 - New statutory rehabilitation extended to all offenders sentenced to less than 12 months custody;
 - A nationwide resettlement service giving most offenders continuous support by one provider from custody into the community;
 - A range of new rehabilitation providers;
 - New payment incentives;
 - A new national public sector probation service.
3. Police and Crime Commissioners were identified as a key partner for the new service providers. The above proposals are meant to enhance joint crime reduction efforts with PCCs by including short sentenced prisoners released from custody within new providers' caseloads, and providing a statutory basis for intervention. As a result PCCs were consulted in the design of the new system and will be engaged collaboratively with it in the live operation from October 2014.
4. Cleveland's Police and Crime Commissioner was one of thirteen PCCs who collectively wrote to the Secretary of State stating grave concerns for dismantling the Probation Service, the subsequent fragmentation and its impact on levels of risk, outsourcing day to day supervision of offenders, and the speed of implementation of changes which lacked Parliament approval.
5. Durham Tees Valley Probation Trust in its response to the consultation in February 2013 highlighted what it considered were significant risks:
 - The fragmentation of offender management.
 - The 'big bang' approach (changes to structures and delivery) that will severely test system resilience.
 - The Payment by Results is an immature and unproven mechanism to drive improved outcomes in criminal justice. It is not a sufficiently tested approach to form the basis of such radical changes, implemented so quickly.
 - That evidence to date shows national commissioning is incapable of meeting local priorities and of being sufficiently flexible to achieve improved outcomes.
 - That transition costs and increased costs of coordinating new delivery structures will be greater than potential efficiencies achievable from within the current system.
 - That increased complexity will reduce effective local governance and degrade delivery of multi-agency working.
 - That compressed timescales will only compound the risks set out above.
6. The Durham and Tees Valley local authorities have each received position reports whether at Council, Cabinet, Overview and Scrutiny, or Community Safety Partnership level.
7. The five Tees Valley local authorities provided varying financial investment to establish ARCC Ltd (Achieving Real Change in the Community) the local Community Rehabilitation Company (CRC) which has an agreed schedule of pledges (including from Darlington, Redcar and Cleveland, and

Stockton Councils) to support its cash flow in the first 2-3 years of the contract, until ARCC achieves a surplus. The pledges are loans, not grants, and are to be repaid with interest.

8. ARCC is one of 30 organisations that successfully completed the pre-qualification questionnaire to run probation services. The table below shows the bidders, partner organisations and those interested in the Teesside contract (in bold):

Bidder name	Partners include:
A4E	
ARCC Ltd	Fabrick Housing; the Wise Group; Safe in Tees Valley; Tees Esk and Wear Valleys Foundation Trust; the Vardy Foundation; Changing Lives in the North East CIC; Stockton Borough Council; Darlington Borough Council
Aspire2 Change Ltd (Essex Probation Trust potential Mutual)	
Capita PLC	
Chalk Ventures Ltd	A4e Ltd; Bridges Ventures LLP; Co:here
Crime Reduction Initiatives Ltd	
CRR Partnership Ltd	Carillion Plc, Reed in Partnership Ltd; Rehabilitation for Addicted Prisoners Trust (RAPt)
EOS Works Ltd	
GEO Delta	Geo Group UK Ltd; Delta Rehabilitation Ltd
GMC Sodexo	Sodexo; Greater Manchester and Cheshire Staff Group
Hampshire Rehabilitation Services	Hampshire County Council; Altered Images Management Ltd
Home Group Ltd	
Ingeus UK	Ingeus UK; St Giles Trust; Crime Reduction Initiatives (CRI)
Innovo (CLM) Ltd	Innovo (CLM); The Manchester College
Interserve Investments Ltd	
Home Group and Mercia Community Action	Home Group; Mercia Community Action
Momentis and Home Group	Home Group; Momentis
MTC Amey	MTC (UK) Ltd; Amey Community Ltd
Northern Inclusion Consortium Ltd	DISC; The Cyrenians; Groundwork NE; Mental Health Concern; Spectrum Community Health CIC
Pertemps People Development Group	
Prospects Services	
Prospects Resolutions Ltd	Prospects Services; Resolutions Ltd
Seetec Business Technology Centre Ltd	
Sentinel Offender Services Ltd	
Shaw Trust	Shaw Trust;
Sodexo UK & Ireland	
The GEO Group UK Ltd	
The Manchester College	
The Rehabilitation Company	Catch 22 Ltd; Turning Point; Williams Lea
Working Links	

DETAIL

9. The following detail of how CRCs will operate offender management and service delivery in the community, and the influence the PCC has is taken from the Ministry of Justice's (MoJ) 'Target Operating Model: Version 3 - Rehabilitation Programme' published in May 2014 which outlines the implementation of Transforming Rehabilitation: A Strategy for Reform.
10. The split between the National Probation Service and the CRC has taken place with the probation service taking the top 30 per cent of offenders who are the most serious and high risk deemed the most significant risk to society. This was based on an exercise undertaken on a specific day identifying those serious offenders in the Durham Tees Valley area and apportioning them between the probation service and CRC.
11. Concern was raised by the task and finish group regarding the 70 per cent in the supervision of the CRC and their possible future escalation of offending. A further concern was with such a high caseload the CRC needs to have the resources to cope with some of the most complex and time consuming cases.
12. The Group enquired about the details of payment by results, a concern highlighted at paragraph 5, and whether weightings would exist amongst the 70 per cent of cases but it was too early to have this information. It is suspected that information would be available in late July or early August. In addition it was queried whether payment by results would be linked to reoffending rates and the group was informed it would with speculation that it could be linked to drug testing for those on specific orders.

Delivery of Services

13. CRCs have responsibility for the management of the majority of offenders in the community. They will be expected to design and deliver an innovative new service to rehabilitate offenders and help them turn their lives around. They will:
 - be given the maximum possible freedom to do what they believe will support the rehabilitation of offenders, and to drive down reoffending rates.
 - deliver the requirements in Community Orders and Suspended Sentence Orders, and licence conditions or supervision requirements for those released from custody.
 - be given greater flexibility to deliver rehabilitation through changes in the sentencing framework.
 - deliver a resettlement service for all offenders released from custody, and will be paid to deliver a range of interventions and services for offenders managed by the National Probation Service (NPS).

Accountability

14. CRCs deliver services under contract to National Offender Management Service (NOMS) and will be contract managed by NOMS.

CRC responsibilities

15. The contracts with CRCs are designed to ensure that:
 - the public is protected;
 - sentences are delivered;
 - reoffending is reduced;
 - the system is transparent, cohesive and exchanges information between the NPS and CRCs; and
 - performance standards are safeguarded and the system delivers value for public money.

Which offenders are covered by the new system

16. In the new system, either the NPS or CRCs will be responsible for the management of the following offenders, following assessment of risk of serious harm and previous offence by the NPS:
- All adult offenders sentenced to a **Community Order or Suspended Sentence Order**, except those who are managed by the Electronic Monitoring (EM) provider. These offenders will be managed either by the NPS or by CRCs for the duration of their sentence.
 - All adult offenders **released on licence from custodial sentences of more than one day**. These offenders will be managed either by the NPS or by CRCs from the date of sentence until the end of the supervision period in the community. The date of release will generally be the midpoint of their sentence. Provisions in the Offender Rehabilitation Act 2014 will require all such offenders in future to be supervised in the community for at least 12 months (either on licence or on a combination of licence and a new post-sentence supervision period).
 - Offenders sentenced as juveniles who subsequently **transition from the youth to the adult system**;
 - All **armed forces personnel** who have been convicted by a service court and who have received a custodial sentence, including a suspended sentence, (other than a sentence of service detention) and who are (i) on licence (ii) under supervision; or convicted by a service court and who have had imposed upon them a service community order or overseas community order;
 - Offenders who **transfer in from another jurisdiction** and whose sentence means they are subject to supervision either as part of a non-custodial sentence or after release from custody (see section on transfers below); and
 - Fine defaulters given a senior attendance centre order.

Sentence requirements and licence conditions/post-sentence supervision requirements

17. The CRC caseload will fall into two broad categories: (a) offenders subject to Community Orders or Suspended Sentence Orders; and (b) offenders released from custody on licence, with some qualifying for additional post-sentence supervision.
18. CRCs will have the freedom to design the services which they believe will be most effective in reducing reoffending and will be able to compel offenders to engage in activity which falls within the terms of the order or licence/supervision period. Any rehabilitative activity undertaken outside the terms of the order or licence/supervision period would be on a voluntary basis by the offender and no sanctions would apply to the offender for failure to engage.
19. A **Community Order or Suspended Sentence Order** can include one or more of the following:
- Unpaid work (known as Community Payback)
 - Curfew
 - Rehabilitation activity
 - Programme (a course addressing specific offending behaviour)
 - Mental health treatment
 - Drug rehabilitation
 - Alcohol treatment
 - Prohibited activity (for example being banned from entering a licensed premises)
 - Exclusion (being banned from entering a specific place)
 - Residence (a requirement to live at a specified address. All offenders serving a community order or suspended sentence order must also seek permission from their Responsible Officer to change residence)
 - Attendance Centre (Under 25s only)
 - Restrictions on travel abroad

Offenders subject to licence conditions

20. CRCs will be responsible for managing and supervising offenders allocated to them throughout this licence/supervision period, delivering activities as required under the licence/supervision conditions described below and monitoring compliance with these conditions.

Statutory and non-statutory partnerships

21. CRCs will need to work closely with other local partners. They will do so both at a strategic level, with Police and Crime Commissioners, and commissioners of other public services such as local authorities and Clinical Commissioning Groups, and at an operational level, through participation in effective partnership working arrangements. CRCs will be required to work collaboratively with their partners to develop an integrated service, and to develop strong functional relationships to target shared local priorities and meet local needs.
22. CRCs will be contractually required to participate in the relevant statutory partnerships. These are set out in the *Statutory Partnerships and Responsibilities* paper. A summary is provided below:
 - CRCs will be designated as a responsible authority under section 5 of the Crime and Disorder Act 1998 and as such will be subject to the associated statutory requirements with regard to Community Safety Partnerships. CRCs will have a contractual duty to co-operate in relation to Multi-Agency Public Protection Arrangements.
 - CRCs will be expected to have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children and will be designated as “board partners” for child safeguarding boards in their CPA.
 - CRCs will be required to support the NPS to ensure the continued effective implementation of both the statutory Probation Victim Contact Scheme and associated statutory responsibilities, and also the established good practice in relation to discretionary victim contact including identifying and providing key information about offenders to NPS staff so that they can then communicate this to victims and, if applicable, allow them to make representations.
 - CRCs will be contractually required to engage in non-statutory partnership working arrangements aimed at protecting the public from harm, safeguarding vulnerable adults or potential victims of domestic abuse and promoting service integration. They will have the flexibility to decide how they engage in such arrangements and with whom.

The Police and Crime Commissioner

23. PCCs will be responsible for commissioning victims’ services from 1 October 2014 and over the three years 2013/14 to 2015/16 will receive funding to build capacity and commission Restorative Justice (RJ) provision as part of their wider victims’ service grant. It will be for each PCC to determine how best to deliver RJ services but the Services Agreement with each CRC has been designed to allow PCCs to commission services under the Agreement directly from CRCs without having to procure these services through a normal open competition tender process.
24. A victim will be able to ask to participate in a RJ process via their PCC and it will be for the PCC to decide whether this should take place and who to commission to deliver it. If a PCC decides that a RJ process is appropriate for the victim (based on an assessment of the victim’s needs) they must also seek the consent of the offender. If the offender is being managed in the community, the PCC will need to liaise with the NPS or CRC depending on who is managing the offender. If the offender is still in custody, then the PCC will need to liaise with the prison as appropriate.
25. Whilst MoJ will be responsible for commissioning CRCs to deliver rehabilitation services, effective engagement and co-commissioning with partners at a national, PCC and local authority level is important to ensure commissioning is responsive to local needs.

26. PCCs and other commissioners such as other Government Departments will be able to commission CRCs to deliver additional services in line with their own priorities with agreement from the MoJ.
27. To effectively facilitate co-commissioning, certain other commissioners as set out in the OJEU notice including Police and Crime Commissioners and other government departments will be entitled to commission the full range of discretionary services set out in part 2 of the NPS rate card (Attendance Centres, Home Resettlement Services, and Victim Offender Conferencing) without having to procure these through a normal open competition tender process. This includes the delivery of rehabilitative interventions.
28. These commissioners will also be able to request that CRCs provide additional 'elective' services. MoJ will monitor the provision of these services which must be delivered to the same cohort of offenders managed by the CRC and are restricted to services which support and enhance the rehabilitative services already being delivered by the CRC.
29. Payment for services will be made directly by other commissioners to CRCs, unless required otherwise by MoJ. Other commissioners will be able to enforce rights directly against CRCs under the Contracts (Rights of Third Parties) Act 1999.
30. Outside of this, and as Probation Trusts are free to do now, CRCs will have the flexibility to enter into local agreements and arrangements with other agencies involved in delivering services to offenders if they consider it will help them in achieving their overarching objective to reduce reoffending.
31. The Police and Crime Commissioner along with his counterpart for Durham has been involved in a Local Area Partnership board working with the MoJ to determine what local elements should be taken into consideration as part of the assessment process of submitted bids. As part of the requirements for Durham and Tees Valley he has indicated the following areas as key characteristics which need to be considered within each bid:
 - The retention of Community Payback
 - The delivery of Integrated Offender Management (IOM) across Teesside
 - The development and sustainability of Restorative Practice
32. With regard to the future CRC the group enquired whether the PCC could ask about the commercial background of the successful bidder to counteract any commercial sensitivity that might be claimed.
33. The Group questioned whether part of the role of the PCP would be to hold the PCC to account for the commissioning of services and how successful they are to achieving objectives. The influence and scrutiny of the new arrangements would need to be developed if this was agreed.
34. It was felt that the PCP and community safety partnerships should be active in questioning the delivery of plans and services by the CRC. CRCs will be represented on the partnerships and the partnerships have a statutory duty to scrutinise and challenge.
35. Concern was expressed about the winning bidder if they are not currently based in the region and lack local knowledge and experience. An additional worry was the profit incentives that some of the bidders may take from the service if successful.

Next Steps and Recommendation

36. It is expected that a decision about the bids will be communicated late July/early August. The Durham/Tees Valley CRC formally commenced on 1 June and Bronwen Elphick was appointed as the Chief Executive.
37. It is recommended that a further update report be provided to the full Police and Crime Panel following the conclusion of the bidding process, inviting the CRC Chief Executive and the new provider to a meeting in early 2015 to outline their plans for the future along with the challenges and opportunities for the service over the terms of the contract.