

MINUTE EXTRACT

Cabinet Meeting – 6th November 2014

1. Title of Item/Report

Transforming Rehabilitation – Support for the Local Bid

2. Record of the Decision

Consideration was given to a report that updated Members on the position in respect of the local bid to deliver offender management services in relation to adult offenders assessed as medium and low risk, and sought agreement to the Council acting as the main guarantor for the local bid.

Members were reminded that a report on the Government's 'Transforming Rehabilitation' programme was submitted to Cabinet on 5 September 2013. In brief, the report outlined the Government's intention to abolish the then system of 35 local Probation Trusts across England and Wales and to replace them with a single National Probation Service, remaining in the public sector and managing those adult offenders assessed as 'high risk', and 21 Community Rehabilitation Companies ('CRCs') dealing with the offenders assessed as 'medium and low risk', in which shareholdings were to be sold to interested bidders, with the emphasis in Government commentary on this process being on bidders from the private and voluntary sectors.

The report went on to explain that the then Durham Tees Valley Probation Trust occupied an enviable position as one of the top three performers among the 35 Trusts while also operating at some of the lowest unit costs.

There were significant concerns about the potential impact of the outsourcing process on local levels of reoffending, and therefore on crime levels, leading to increased budget pressures across a range of Council functions, and Cabinet agreed a series of recommendations, the most important of which was that the Council subject to a viable business plan should support the proposal for a consortium of local organisations to bid to take over the Durham Tees Valley CRC.

In the intervening period the process had unfolded, with some minor changes to timetable. A Community Interest Company (CIC) without shareholdings, known as ARCC ('Achieving Real Change for Communities') had been established. The partner organisations, in addition to this Council, were Darlington Borough Council; Tees, Esk and Wear Valleys NHS Trust; Thirteen Housing Group; the Wise Group (a social enterprise with significant experience of working with offenders in Scotland and main contractor to the Department of Work and Pensions for its Work Programme in the North East); Safe in Tees Valley; the Vardy Foundation (a registered charity); and Changing Lives in the North East, a CIC established to represent staff of Durham Tees Valley CRC. Redcar & Cleveland Borough Council had also been closely associated with and fully supportive of ARCC, and was anticipated to become a full formal member of the consortium prior to 'go live'.

A more detailed understanding of the requirements had been established and a bid and risk register developed. A high level summary of the bid was attached to the report. The consortium submitted its bid in June and received feedback in August. Nineteen bidding organisations had submitted a total of 84 bids for the 21 CRCs. None of these bids were deemed to be fully compliant with the requirements of the Ministry of Justice (MoJ), but all bidders were provided with detailed feedback on 15 August and offered the opportunity to resubmit their bids by 5 September. The ARCC bid was deemed to be one of the stronger bids received. A revised bid was duly submitted, and a process of due diligence, including an independent external assessment of the financial viability of the bid and risks attached to it, was planned to take place immediately if and when ARCC was notified that it had achieved preferred bidder status, and this would inform the final delegated decision on whether to provide the Guarantee.

One of the requirements of the bidding process was for every bidding organisation to provide a Deed of Guarantee to the MoJ from an organisation which would guarantee to reimburse the MoJ for significant failures in performance up to and including catastrophic failure requiring a recommissioning process, which would involve significant costs to the MoJ. A copy of this was attached to the report. A value of Guarantee had been set for each CRC and for Durham Tees Valley it was approximately £13.8 million. In the case of commercial bids the guarantee would usually come from the Group concerned, to eliminate the risk to the MoJ that would otherwise exist of the liabilities being contained within a subsidiary operating company which may cease trading.

Discussions within the consortium established that this Council was the partner best placed to stand as Guarantor for the bid, but also that the potential risk, and the contingent liability on accounts, should be shared among consortium partners.

For the purposes of the original bid submission in June an “in principle” decision was made under the Council’s Urgency Procedure to proceed on this basis, on the understanding that the decision would not come into effect until and unless a contract is concluded between ARCC and the MoJ.

The MoJ had not published a detailed timetable for the concluding stages of its procurement process, but the best current estimate was that preferred bidders may be announced at the end of October, with contracts to be signed shortly before Christmas, and the new arrangements to ‘go live’ from 1 February 2015. In view of this timetable it was timely to seek a substantive decision in relation to the Deed of Guarantee.

Without such a Guarantee the ARCC bid would be disqualified and the Community Rehabilitation Company would almost certainly end up under the control of a commercially driven organisation, which was exactly the outcome that the Council’s participation in the consortium was intended to avert. Members were reminded that the contract would be for at least 7 years, with options to extend up to 10 years, and that ARCC’s status as a CIC without shareholdings guarantees that any surpluses generated will be reinvested in social goods for Durham Tees Valley. Some further indications of the scale of the enterprise were attached to the report, which was confidential.

RECOMMENDED to Council that:-

1. The Council should agree to act as main guarantor for the local bid, subject to satisfactory subsidiary guarantees being provided to the Council by other partners in the bid (including other local authorities), and to the Council being satisfied on completion of an independent assessment of the financial viability of the bid, and
2. A delegation be made to the Corporate Director of Development and Neighbourhood Services, in consultation with the Cabinet Member for Housing and Community Safety, Corporate Director of Resources and Director of Law and Democracy to finalise the Deed of Guarantee be agreed.