16 November 2018

Dear Chair,

GOVERNMENT CONTRACTS FOR COMMUNITY REHABILITATION COMPANIES

I am writing to provide the Public Accounts Committee with further information in reference to its March 2018 report, Government contracts for community rehabilitation companies.

In our initial response to this report, the Ministry of Justice undertook to update the Committee regarding five of its recommendations once commercial discussions with Community Rehabilitation Companies (CRCs) had concluded and proposals were further developed for the future delivery of probation services. I apologise that this update is later than initially proposed.

As the Committee will be aware, in July 2018, the Government announced its intention to terminate existing CRC contracts in 2020 and consult on proposals to improve the structure and content of probation services. The conclusions and recommendations of the Committee’s report helped to shape the consultation, Strengthening probation, building confidence, and continue to influence the department’s work to develop further probation arrangements.

The attached update provides further information on the intended improvements, as well as on measures already taken to ensure short-term operational stability and value for money in existing contracts. We will announce more detailed plans early next year.

I would like to thank the Committee for its continued interest in and scrutiny of the probation system, and of our work to improve it.

Yours sincerely,

Richard Heaton

RICHARD HEATON
Government Contracts for Community Rehabilitation Companies

1: PAC conclusion: The Ministry of Justice still has a long way to go before it achieves the objectives of its reforms.

1: PAC recommendation: The Ministry should update the Committee by the end of April 2018 about the financial stability of providers, particularly following profit warnings issued by one provider, and set out any further changes it intends to make to get its rehabilitation revolution on track to ensure the prime goal of reducing reoffending is actually achieved.

The Government agrees with the Committee’s recommendation.

Target implementation date: October 2018.

The Department recognises that overall Community Rehabilitation Companies (CRCs) are still projected to make losses over the life of the contracts. The Department is currently in commercial discussions with its providers to consider how it can ensure CRCs provide the standard of services required. The Department will update the Committee once these discussions are concluded and in line with the October 2018 target date.

In Summer 2017, the Government made changes to CRC contracts so that payments to providers more accurately reflect the costs of delivering services to offenders. This change to the contractual payment mechanism increased the maximum potential value of the contracts by around £277 million for their remaining duration. The actual change in total value will depend on future volumes. These changes were made to support the continued delivery of probation services and maintain a focus on reducing reoffending. During oral evidence to the Justice Select Committee inquiry into Transforming Rehabilitation, a representative from Sodexo confirmed this adjustment had provided ‘some certainty and stability’ while Kent, Surrey and Sussex CRC noted it had ‘brought about an element of stability’.

The Department works closely with all providers and with the Cabinet Office and other Government Departments to monitor the financial stability of its suppliers and manage any risks to the delivery of probation services. The Department has contingency plans in place should any provider be unable to deliver their contractual requirements.

In July 2018, the Government announced its intention to terminate existing CRC contracts in 2020 and put in place new arrangements for the delivery of probation services that will better integrate public, private and third sector providers and drive improvement.

The Government also announced variations to current contracts to secure short term operational stability and performance improvements in key areas. This included investing an additional £22 million a year to enable providers to deliver an enhanced level of Through the Gate (TTG) support, a new requirement to offer a minimum of monthly face-to-face contact with offenders, and offering to amend the 2011 baseline for the frequency of reoffending measure to better reflect CRC performance. The Department has agreed to vary contracts with 20 of 21 CRCs to measure against a 2015/16 baseline. Using performance projections as at July 2018, this change is expected to reduce CRC losses (Contract Year 1 to Contract Year 7) by approximately £113 million.

The new specifications for TTG and minimum contact came into effect on 1 October 2018, with full implementation expected by 31 March 2019. The Department’s Contract
Management team has been working with the CRCs on their plans to introduce the new specification and is building contract management assurance processes to ensure delivery against these new obligations, including impact on the service, can be monitored going forward.

As part of standard good contract management practice the Department continues to robustly monitor the performance and stability of all providers and we have detailed contingency plans in place for all contracts, which are regularly reviewed.
2: PAC conclusion: The Ministry’s failure to pilot or properly understand its fundamental changes to the probation system has led to CRCs not investing in probation services, which have suffered as a result.

2: PAC recommendation: The Ministry should, by April 2018, write to the Committee to explain how it will ensure any future changes to the contracts of this scope and scale are well thought through and piloted to minimise damaging unintended consequences.

*The Government agrees with the Committee’s recommendation.*

*Target implementation date: October 2018.*

*The Department will continue to work very closely with its providers and their partners to learn lessons from the reforms and to consider how it can improve the performance of probation services and the operation of contracts.*

*Proposals for any future reforms of probation will be developed in consultation with the market and stakeholders, and informed by a range of sources, including reports from the HM Inspectorate of Probation, the Committee and the NAO, and the findings and recommendations of the Justice Select Committee’s inquiry into Transforming Rehabilitation. The Department will update the Committee on its future plans by October 2018.*

The Government is determined to ensure that the new arrangements put in place after 2020 reflect lessons learnt from Transforming Rehabilitation. This is why the Government announced in July 2018 a public consultation on proposals for the future of probation. The consultation, ‘Strengthening probation, building confidence’, ran from 27 July to 21 September 2018 and sought stakeholders’ views on improvements to the content and structure of services, including on many issues raised by the Justice Select Committee’s inquiry into ‘Transforming Rehabilitation’. 476 responses were received from a wide range of groups including current and prospective providers, probation staff, sentencers, service users and local authorities. This was accompanied by an extensive programme of stakeholder and market engagement events to collect feedback, involving approximately 1,100 attendees.

The feedback collected is informing the Department’s design decisions on the future model of service delivery. The Department is currently continuing to engage with key stakeholders as plans are refined, including with providers, HM Inspectorate of Probation and Police and Crime Commissioners.

As with any Government programme, the reforms proposed will be subject to rigorous evaluation and testing by the Department, including comparison against alternative models for delivery.

Detailed arrangements to replace existing probation contracts will be announced next year alongside a full response to the consultation.
3. PAC conclusion: The Ministry has still not delivered on its commitment to ensure that the third sector can help improve rehabilitation services.

3. PAC recommendation: The Ministry should, by April 2018, publish a comprehensive analysis of the gaps in provision of rehabilitation services across all CRCs that could be addressed through greater involvement of the third sector. It should use future negotiations to seek commitments from CRCs to make greater use of the third sector.

The Government agrees with the Committee's recommendation.

Target implementation date: October 2018.

The Transforming Rehabilitation reforms created opportunities for the third sector to bid to deliver probation services. The Department now has third sector organisations forming part of a consortium of prime providers (ARCC in Durham and Tees Valley CRC), working in partnership with private providers (for example, Nacro) and delivering services as part of CRCs' supply chains.

Contracts require CRCs to provide statutory probation services and support to offenders for their rehabilitation, and the Department will continue to hold providers to account for meeting their contractual obligations. The Department also monitors the composition and use of CRCs' supply chains, including the involvement of third sector organisations. The Department accepts that unforeseen financial challenges have often prevented CRCs from developing their supply chains to the extent envisaged. The lessons learned from this first generation of contracts will be applied to any future arrangements for probation service delivery.

The Department continues to provide funding to Clinks via an infrastructure grant to monitor and facilitate voluntary sector involvement in the delivery of services to offenders. Clinks continues to track the voluntary sector involvement in probation since the Transforming Rehabilitation reforms, and its next report, due to be published in May 2018, will provide an update on current levels of involvement.

The Department is currently in commercial discussions with providers to consider how it can ensure CRCs provide the standard of services required. The Department will update the Committee on the third sector contribution to CRC services once these discussions conclude. The Department is also undertaking further work to assess the CRC supply chains and will update the Committee on the proposed steps by October 2018.

The Department recognises that the expertise and commitment of voluntary sector organisations is vital in helping offenders turn their lives around. The Department aims to encourage greater involvement of the voluntary sector in the provision of probation services through the next generation of probation contracts and is considering feedback from the consultation on how this is best achieved.

The Department plans to remove unnecessary barriers to entry and aim to better enable voluntary sector organisations to provide probation services not only at subcontractor level but also at key strategic delivery partner level. At key strategic delivery partner level, this may take the form of voluntary sector organisations acting as sole providers, as is the with one of eight Parent Companies who currently manage CRCs, or as key partners in consortia; at subcontractor level, the Department aims to secure the involvement of and funding for more specialist services from smaller and more local voluntary sector organisations.
As arrangements for the future probation contracts are developed, the Department is also considering a number of options to encourage and support the voluntary sector in the provision of rehabilitative services and promote greater collaboration. Options include the development of requirements which encourage voluntary sector involvement, the setting of targets, or requiring bidders to make a commitment regarding the amount or percentage of contract package area value they are prepared to spend with voluntary organisations. The Department is reviewing the approach to Parent Company Guarantees, the use of Industry Standard Partnership Agreement and our approach to Market Stewardship and commissioning mechanisms. The Department is also considering the ways in which the proposed HMPPS regional leader can foster closer links between providers and voluntary sector organisations and encourage providers to develop their supply chains.
4. PAC conclusion: It is unacceptable that, almost halfway through their seven-year contracts with the Ministry of Justice, CRCs are not yet able to link their ICT systems to HM Prison and Probation Service.

4. PAC recommendation: HMPPS should, by July 2018, write to the Committee to confirm whether the 14 CRCs have successfully linked with HMPPS' ICT systems as planned and, if not, explain the reasons for any further delay.

The Government agrees with the Committee's recommendation.

Target implementation date: October 2018.

The Strategic Partner Gateway, which allows providers to link their ICT systems to HMPPS systems, have been in place since September 2016. The Department is continuing to work with providers who intend to implement their new systems, acknowledging that some have decided to remain using IT systems provided by HMPPS. The Department will update the Committee on progress in providers implementing their own systems by July 2018 and will provide a further update including future plans for IT connectivity in Probation by October 2018.

The Strategic Partner Gateway, which allows providers to link their ICT systems to the HMPPS case management system for probation, National Delius, is operational.

Of the 21 CRCs implementing their own solutions, one is now live with a number of users and two more CRCs are due to be operational and beginning roll out to their staff by the end of the year. A further six CRCs seeking to use their own systems are connected to the Strategic Partner Gateway and have completed most of the testing required but are not yet in a position to work with live data and begin the roll out of their solution to their staff. They are currently expected to complete technical testing by the end of the year and to have started roll out by March 2019. The remaining 12 CRCs are operating with HMPPS systems and are not planning to move to their own solution.

The causes for the additional time required to support parent organisations and their CRCs to complete testing, include time required to resolve errors identified during testing and complete the necessary business readiness assurance activities.

Since January 2018, HMPPS has taken management of the prison case management system, Prison NOMIS, and the risk and needs assessment tool, OASys, in-house, hosting these applications and databases in the cloud. It is now in the final planning stages of migrating the national probation case management system National Delius. This change enables HMPPS to make changes and develop Application Programme Interfaces (APIs), which facilitate greater, faster and better data sharing internally and externally. These APIs conform to current government guidelines on open data and APIs and form the basis of improved data sharing.

As part of development of the next generation of probation services, the Department plans to invest in HMPPS digital services, including greater use of APIs, to simplify data access and exchange and deliver improvements to IT systems. The Department is working towards greater centralisation of data systems, in particular those relating to risk and needs assessments, and improved data sharing within HMPPS and with external partners, including potentially with future providers of probation services.
6. PAC conclusion: It is not yet clear what the Ministry has received from CRCs in return for the contract changes it negotiated with them.

6. PAC recommendation: The Ministry should, by the end of April 2018, write to the Committee with details of what the taxpayer has received for the extra money it has pledged to CRCs. As part of this, the Ministry should clarify what protections it has put in place to ensure that the additional funding is being directed towards frontline rehabilitation services, and take immediate steps to recoup the £9 million owed by CRCs.

*The Government agrees with the Committee’s recommendation.*

**Target implementation date:** October 2018.

The Department changed CRC contracts in summer 2017 so that payments to providers more accurately reflect the costs of delivering services to offenders. Contracts originally assumed that 20% of providers' costs were fixed and could not be changed within 12 months; in fact, on average 77.3% of provider's costs are fixed. This original assumption in the contracts meant that providers were being paid less than the cost of delivering the services.

The Department therefore changed the contracts so that providers were more appropriately resourced to meet their contractual obligations, supporting them to deliver the standard of services the Department and taxpayers require. The rationale for the change and the benefits achieved for the funding provided in the contractual adjustment in the summer of 2017 are as set out in the NAO report. The Department continues to robustly manage the contracts. Projected payments to CRCs still remain significantly below the original £3.7 billion forecast when contracts were let.

Contractual end-of-year reconciliation exercises identified circa £9 million of fee-for-service payments to CRCs that could be recovered by the Department. As part of the current commercial discussions with providers, the Department will agree how repayment of this outstanding amount is resolved. The Department will update the Committee by October 2018.

The Department originally expected to spend up to £3.7 billion in total on CRC contracts that ran until 2022. With early termination in 2020, it is now forecast that the total spend will be up to £2.2 billion.

Since the Public Accounts Committee was last updated, the Department has negotiated a package of changes to CRC contracts as set out in the public consultation document ‘Strengthening probation, building confidence’. These changes, which are expected to improve CRCs' financial positions by approximately £170 million, are important to deliver operational stability and performance improvements in key areas such as Through the Gate resettlement support. They also include the requirement for all providers to introduce a minimum of monthly face-to-face meetings with offenders during the first 12 months of supervision, to ensure the effective delivery of the sentence of the court and protection of the public.

In relation to the £9 million in recoverable fee-for-service payments identified by the Department, this was revised to £3.1 million as a result of the implementation of 2017 changes to CRC contracts intended to more accurately reflect providers’ fixed costs. Of this, approximately £2.3 million has been recouped from CRCs by the Department, with the remainder part of continued commercial discussions.