

Clinks briefing on the Invitation to Negotiate stage of the Transforming Rehabilitation reforms

February 2014

Introduction

The Ministry of Justice (MoJ) has now moved to the Invitation to Negotiate (ITN) stage of the Transforming Rehabilitation probation competition with [the 30 Tier 1 providers](#) who have passed the Pre-Qualification Questionnaire stage. As part of this, they have released a new [Target Operating Model](#) (updating the last one), more details of the contracts that Tier 1s will sign, and an overview of the Payment Mechanism (this is part of the contract documentation which can be downloaded [here](#)). The MoJ have also published the Industry Standard Partnering Agreement, which is designed to govern all future subcontracting arrangements in MOJ contracts, including as part of Transforming Rehabilitation. This is out to formal consultation, and Clinks will respond separately to that in due course.

This briefing summarises the key new information contained in the Target Operating Model and Payment Mechanism Overview. It is an update to previous information Clinks has published. For general information about the Transforming Rehabilitation reforms click [here](#) and for a glossary of terms relating to Transforming Rehabilitation see [here](#).

Payment mechanism

We now know that the Fee for Service element of what Community Rehabilitation Companies (CRCs)¹ will be paid for² will include delivering the sentence of the court, the new Rehabilitation Activity Requirement (which can be imposed as part of a community order) and Through the Gate resettlement services.

The payment mechanism remains based on both a binary and frequency metric, with a binary hurdle still in place. This means that CRCs who succeed in reducing the average number of reoffences per offender within a 12-month period (the “frequency metric”) will not get a Payment by Results (PbR) payment unless they also achieve a reduced percentage of offenders convicted of *any* offence within that period (the “binary metric”), or it at least stays the same as the historic baseline. Although Clinks had called for the binary hurdle to be removed, setting the binary hurdle at the baseline in this way is a positive development. We hope it will give providers more freedom to focus on the

¹ The new entities formed to replace probation trusts in each contract package areas, which the successful new bidders will take over.

² This is the part not subject to Payment by Results.

frequency metric, and thus offenders with more complex needs, than previous proposals would have done.

The MoJ has also introduced a window or “bedding in” period before PbR will start to be measured, which should help to mitigate potential cashflow problems to any voluntary sector subcontractors who might be taking on a PbR arrangement. The length of the bedding in period will depend on exactly when the new contract starts, but will be at least six months.

In addition, the time lag between the start of the PbR measurement, and payment or deduction, will also be substantial because of the time taken to create the offender cohorts, measure reoffending over 12 months, and calculate and process payments and deductions. In other words, PbR will not affect what the Tier 1 providers are paid for the first 3-4 years of their contracts; how this affects the voluntary sector will depend on how Tier 1s decide to arrange their supply chains at this stage. A more specific outline of how this time lag is broken down is given in the main document (downloadable [here](#)).

Target Operating Model

The second version of the Target Operating Model (TOM) has been updated to include further developments in the design of Transforming Rehabilitation with regards to restorative justice, Through the Gate resettlement services, the constitution of CRCs, integration and partnership working, system governance and estate issues. Further updated versions with expanded information on ICT, data management and potential other sections will be published in the future.

Below we outline key new information that will be of importance to the voluntary sector. Please note that this briefing is not a comprehensive summary of the whole document.

Equalities

CRCs will be required to act in accordance with the Equality Act 2010 and Human Rights Act 1998. This obligation will be reinforced in contractual provisions which will enforce the commitments made to meeting these requirements at the bidding stage.

We are pleased that the TOM has also been updated to reflect the recommendations from the NOMS review of the female custodial estate³. CRCs will be required to deliver specific services to female offenders, but only where practicable. Women offenders should have the option of female offender managers, to be interviewed in female only

³ You can read our briefing on the NOMS Review on the Female Custodial Estate [here](#)

environments and to not be placed in all male work environments, though it is not an absolute requirement.

Through the gate services

Prison staff remain responsible for the immediate needs of all offenders in custody and will complete the first part of the basic custody screening tool to determine resettlement needs during the induction process. CRCs will then have access to this assessment within 3 days of the prisoner being received and will complete the second part in order to develop a resettlement plan within five business days. Prison staff will have access to resettlement plans in order to support case management.

The Fee for Service element of what CRCs will be paid for includes the delivery of a resettlement service focused on the beginning and end of a prisoner's sentence and Through the Gate resettlement services. These resettlement services may include helping offenders find accommodation, providing family support, assistance with retaining pre conviction employment, financial advice and support for prisoners who have experience of domestic or sexual abuse. They may also include signposting to services offered by other providers addressing health needs, substance misuse, employment, education and training.

The CRC, with agreement of the Prison Governor can also provide additional interventions in pursuance of reduced reoffending and thus additional PbR. "Mentoring support through the gate" is given as an example of this, rather than something that will be provided on a Fee for Service basis in every area. This raises a question about how widespread mentoring and other services that provide individualised, holistic, wrap around support are likely to be.

Designation of resettlement prisons

CRCs will be allocated a number of resettlement prisons in which they will be contracted to deliver resettlement services. A small number of adult male resettlement prisons will serve more than one Contract Package Area (CPA) – these fall into two categories of prison.

In the first there will be a 'host: lead provider' CRC. This CRC will be responsible for:

- completing resettlement plans for each prisoner shortly after reception into custody,
- delivery of all immediate requirements in resettlement plans (except in shared prisons, see below)
- sharing copies of resettlement plans for prisoners whose home CRC does not provide services in the prison,

- engaging in pre-release planning with their prisoners for whom they are the home CRC and undertaking resettlement activities required in preparation for release and
- engaging with the home CRC or NPS for other prisoners and then undertake activity unless it relates to accommodation and employment, as this which will be undertaken by the 'home' CRC or NPS.

The second category are referred to as 'shared adult male prisons'. In these prisons there will be both a 'host: lead provider' CRC and a 'host' CRC. The host CRC will be responsible for:

- preparing resettlement plans and
- delivering immediate requirements in resettlement plans for their allocated persons and all remanded prisoners with home addresses in their CPA.

The 'host:lead provider' will deliver services for all other prisoners ie. those for whom they are the home CRC and those whose home CRC does not provide services in the prison.

It is likely that most women's prisons will operate on the shared prison model. Similarly, resettlement services in the young adult estate will also operate in this way.

Victims' services and restorative justice

From 1 October 2014 police and crime commissioners (PCCs) will be responsible for commissioning victims' services and will receive funding over three years to build capacity and commission Restorative Justice (RJ) provision as part of this. PCCs will be able to commission these services directly from CRCs without having to procure them through open tendering processes.

CRCs (or the National Probation Service [NPS]) will also be able to choose to deliver victim offender conferencing under court imposed Rehabilitation Activity Requirements (RAR). This can take place in the community or in resettlement prisons. Where victims request to participate in RJ via their PCC, PCCs will liaise with CRCs (or the NPS) to deliver this.

Partnership arrangements and co-commissioning

Further detail is provided on partnership arrangements with statutory and non-statutory partners. The CRCs will be contractually required to work with statutory partners such as PCCs, local authorities, clinical commissioning groups, and youth offending teams in order to develop integrated services and meet local needs.

CRCs will not be funded to duplicate existing mainstream services but will instead work in partnership with agencies delivering them. For example, where a sentence includes a Drug Rehabilitation Requirement, the CRC would be responsible for ensuring delivery of this but not for delivering it themselves as this will remain the responsibility of local drug treatment services.

PCCs, other local commissioners and government departments will be able to commission through the CRCs without having to go through open tendering processes. This raises concern that future opportunities for voluntary sector organisations not in the local CRC's supply chain may be narrowed further. Although CRCs will also be able to enter into other arrangements with agencies delivering services to offenders, as probation trusts currently do, in order to achieve a reduction in reoffending.

With regards to non-statutory partners, including the voluntary sector, there will be a requirement for CRCs to engage in partnership working arrangements aimed at protecting the public from harm, safeguarding vulnerable adults or potential victims of domestic abuse and promoting service integration. However, they will have flexibility to decide how they engage in such arrangements and with whom.

Wales

To take into account the different governance arrangements in Wales, drug and alcohol treatment will be procured separately via the Director of National Offender Management Services Wales. There will be an integrated approach, jointly commissioned with PCCs, to the Drug Intervention Programme and prison based treatment which will align with the Wales Reducing Reoffending Strategy. The CRC in Wales will be able to bid to provide this.

Market stewardship

CRCs will have considerable flexibility in designing their bids, but the successful bidder in each area will be required to deliver the services that featured in their bids, and their contracts will contain these commitments. This addresses some concerns that have been raised about Tier 2 and 3 providers not receiving work afterwards.

Volunteering and service user involvement

CRCs will be able to employ, or involve as volunteers, ex-offender mentors. The government baseline personnel security standard and a DBS will need to be carried out but CRCs will be able to use their discretion, following a risk assessment, as to whether unspent convictions or unsatisfactory references should prohibit an individual from being employed. NOMS wants to avoid unnecessary restrictions on the involvement of ex-offenders and will take their knowledge and skills and background into account. In prisons, Governors will work with CRCs to facilitate access but will retain the ultimate authority in relation to this.

Other updated information

In addition to the information outlined above the document also contains updates on the constitution of CRCs, commissioning and contract management, performance and delivery assurance, payment mechanism and performance incentives, the role of HM Inspectorate of Probation, prison and probation ombudsman, professional standards, the probation institute, and estates.

Feedback

Clinks welcomes any comments or queries about this briefing. We would especially like to hear the views of Voluntary, Community and Social Enterprise (VCSE) Sector organisations. Please contact Jess Mullen using the details to the right.

Author

Jessica Mullen
Senior Policy and Projects Officer
Clinks
Email: Jessica.mullen@clinks.org

Get involved [Become a Member](#) | [Follow Clinks](#) | [Join Mailing List](#)

Contact Us www.clinks.org | info@clinks.org | 0207 248 3538

© Clinks, 2013

Registered office: Clinks, 59 Carter Lane, London, EC4V 5AQ

Registered charity: 1074546 | Company limited by guarantee in England & Wales: 3562176