Supporting the voluntary sector working in the criminal justice system

Feedback from voluntary organisations following market engagement on the commissioning of HMPPS Prisoner, Family and Significant Other Services

Introduction

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system. We are a membership organisation with over 600 voluntary sector members of all sizes, from organisations delivering complex public sector contracts, to entirely volunteer-led organisations delivering services to people in prison and on probation.

This paper sets out the feedback that has been collected by Clinks from voluntary organisations that are looking at the forthcoming commissioning of HMPPS Prisoner, Family and Significant Other Services.

The feedback is based on responses to a survey that we circulated to 58 individuals in organisations that registered to attend one of the market engagement events that the Ministry of Justice and HMPPS held in November 2021 and who had given permission for their contact details to be shared.

We received 11 responses to the survey, predominantly made up of organisations that are delivering the current contracted services. We also held an open meeting, inviting all voluntary organisations that had registered to attend the market engagement events. This meeting was attended by 13 individuals representing 8 voluntary organisations; all of the attendees were existing providers of family services.

Summary of the feedback

There are a number of aspects of the draft high-level tender specification and associated plans that organisations have welcomed. For example, a core specification that seeks to achieve minimum standards across prisons and broadens support to those that don't receive physical visits, is seen as positive. However, there's a strong feeling that there is a misalignment between the expectations and the funding, and that the budgets are insufficient to deliver on the stated government commitments to deliver on the recommendations made by Lord Farmer.

In September, Clinks made a submission to HM Treasury's spending review, titled *Time to invest in families*, that set out the need for significant additional investment in the services delivered in prisons to develop and maintain relationships. Building on that submission, and in working with the budgets as set out in the market engagement events, the feedback we have received from

organisations suggests that there are a number of steps that MoJ/HMPPS should take to the approach to the forthcoming competition that would enable the maximum use of a limited budget to be focused on key aspects of delivery and overall increase impact.

The recommendations outlined in this feedback are:

1. Remove the weighting on cost and adopt a fixed price approach to these contracts.
2. Separate refreshment provision from the core specification.
3. Remove the proposed split of surplus refreshment income. Providers should instead be required to ringfence surpluses and reinvest them into additional added-value services in the prison.
4. Remove the suggested 5% performance pay element and instead introduce effective and consistent contract management.
5. Work with organisations to develop standardised impact measurement across the core services that are being delivered. This could include a session with potential bidders to help co-design SMART outcomes that would form part of the resulting contract.

In addition to these recommendations, Clinks produced a paper in 2020 on the future commissioning of prison family services. That paper included six recommendations that remain relevant, and so these are reproduced in Annex A.

There are a number of questions raised in this feedback. The questions are:

1. Could there be clarification on the position around TUPE for staff undertaking positions that would be brought in-house in the prison?
2. What processes will MoJ/HMPPS be undertaking to ensure that prisons have understood their budget allocation and that the detailed specification for that prison is realistic to be delivered? To mitigate against the risk of unrealistic expectations, will there be scope for organisations to explain to what extent they can deliver different aspects of the core specification as part of their bid?
3. Will the budgets be adjusted year-on-year in line with the change in population of individual prisons/lots?
4. Will providers be able to make use of existing assessment processes to receive data (e.g. basic custody screening tool / OMiC) or is there an expectation on family services staff to assess everyone on induction? In some prisons this would require a full-time worker due to the number of daily receptions and will be a significant drain on the overall budget.

Draft high level tender specification

There is a feeling that there is a misalignment between the expectations and the funding:

- *"Welcome the aspirations to broaden support to those people in prison that don't receive physical visits, however that aspiration hasn't been backed-up by an increase in budget."*

There is widespread concern regarding the budgets and the levels of service that can be provided. Organisations bidding for one lot, or a small number of lots, are worried that the budget will only be sufficient to support the minimum level of provision and that they will be scored less favourably than those bidding for multiple lots where staff roles and associated costs can be extended more widely, therefore enabling a greater level of provision.

Although the draft high level tender specification is seen as welcome, organisations are struggling to understand what this will mean in practice:

- *"We can't cost anything at the moment as we don't know what local establishments want. We know how much they have but don't know what they want. When will the local specifications come out?"*

The introduction of social value as an aspect of the specification is new to the vast majority of organisations. There is a clear support for this.

However, there are practical concerns. For example:

- *"Social Value - employ a workforce that reflects the diversity of prison community – this raises concern as we already have staff employed on these contracts therefore how would we meet this objective without potentially positive discriminating against existing staff or potential recruits?"*

There is particular concern because of the link between social value, a KPI on social value, and a 5% performance pay in the contract.

There is concern about how the specification fails to recognise the importance of supporting the needs of families, given how support to families can lead to maintenance of family ties which in turn benefits people in prison too:

- *"These are not family services, they are services to support prisoners to maintain contact with family and significant others, so in effect, prisoner services. For example, there is a section about services for prisoners without contact with family or significant others, where is the section that covers support for family members who have no contact with the prisoner? Another section, support for secure video calls details the need to provide support before and after calls. Where is the detail for how this will be offered to families? Another section discusses employing a workforce that reflects the prison population and employing former prisoner, if these are family services where is the information about a workforce that reflects families or recruiting family members? There is discussion of need relating to family issues in the first two weeks, does this include families or just the prisoner? In the section on enrichment activities there are notes about discussing with the prison representative to identify services required yet there is nothing about seeking the views of families, children or prisoners."*
- *"There seems to be shift away from working with families to more prison engagement to maintain family ties. Services to Visitors is meet and greet nothing in there about booking families in, in-depth family support, telephone support etc. This is a vital element for all families entering the CJS for the first time."*
- *"Work with children has not been given as much priority as we would have liked. From our experience being able to support children has a direct positive impact on fathers. It would be good to see if investment in prisoners children could be seen as a priority by HMPPS, even if it means looking to the Department of Education for creative solutions."*

To enable organisations to understand the needs of each prison, feedback suggests it will be important to provide sufficient information as part of the competition at an individual prison level:

- *"Will the number of receptions per prison be provided to help bidders understand how many assessments would be needed? Similarly, for those prisons requiring catering/refreshment services, will the details of the income/profit gained from these services be provided to bidders, similar to TUPE information?"*

There is concern that some existing providers might provide certain services – such as visits bookings – that are not part of the core specification but that providers are employing people to do now.

Question – Could there be clarification on the position around TUPE for staff undertaking positions that would be brought in-house in the prison?

Similarly, there is concern about the TUPE implications for future providers:

- *"Can we clarify the HMPPS (public sector employees) staff will not be included in TUPE where those staff may currently be performing roles that may be viewed as part of 'core service"*

In relation to the visits room:

- *"The inclusion of visits hall refreshments within the national minimum standard suggests that the contracted provider would be responsible for refreshments where these exist in any visits hall. In reality, prisons run this operation in many sites currently and may continue to do so."*

In relation to visits play:

- *"The play model described is very prescriptive and not in line with the aim of maintaining family relationships. It also doesn't account for the needs of older children/ teenagers. The use of play workers is becoming outdated as there is recognition that children need to bond with their father during the visit which doesn't happen if they are in a separate area of the visits hall. The concept of qualified play workers is also problematic as often, particularly where there is limited resource, it will be the Family Engagement Practitioner or Family Advice Worker who oversees the play area, not a separate play worker."*

In relation to family engagement:

- *"Concerns about the day to day work of the worker being overseen by the prison. This doesn't happen for other contracted services, so what is the rationale for this?"*

The provision of support before and after secure video calls is welcomed but a concern in relation to capacity:

- *"This is a significant volume of work and therefore would need to be balanced with other requirements of the service based on the staffing level available within the budget."*
- *"This has a considerable impact on available staffing for other FSOS activities. This supervision is currently undertaken by uniformed staff - is the expectation that FSOS provider will take this over? Significant resource implication of this."*

Lot structure

There is broad support for the approach to the lot structure:

- *"Larger lots make it harder for smaller third sector organisations to compete with larger organisations with greater capacity (but less local knowledge and presence to support families/ offenders appropriately). This approach offers opportunity for smaller organisations to bid for targeted elements of the service."*

- *"The lot structure is good as it means smaller organisations like ourselves can bid"*

There is an understanding behind high security prisons and women's prisons being added to geographical lots, however given the above feedback about smaller lots, caution should be taken towards this.

Indicative budgets

There is widespread concern about the indicative budgets. We know of at least one current small provider that will not be bidding for the future contracts in the prisons they currently deliver in:

- *"This is our biggest issue. We have seen (some significant) reductions from the current contract value. We are not sure whether this is because there will be additional money when the 'optional' services are included and new budgets issued, or whether the figures provided are already the total budget for all delivery and thus these contracts are all reduced in value. In the women's prison, the 50% 'uplift' attributed to women's prisons actually appears to be a decrease of circa 37% on what we currently receive as a subcontractor."*
- *"They seem lower than expected once the 20% was announced. It is hard to gauge the overall viability without seeing the final establishment budget including any 'Optional' additional services. For example, 'Booking Visits' - from our experience this service is a substantial undertaking that can very easily dominate overall delivery to the detriment of other aspects."*

There is concern from organisations that prisons will be unrealistic in their expectations of the extent to which they want the provider to deliver the high-level specification. There is a need for each establishment to provide detail specifications within each lot. In the last commissioning cycle, the feedback was that there was not enough work done to structure specifications that were realistic given the amount of money involved. Organisations should not have to 'second guess' what individual establishments want based on broad high-level specifications and KPI's.

Question - What processes will MoJ/HMPPS be undertaking to ensure that prisons have understood their budget allocation and that the detailed specification for that prison is realistic to be delivered? To mitigate against the risk of unrealistic expectations, will there be scope for organisations to explain to what extent they can deliver different aspects of the core specification as part of their bid?

One of the strengths seen with the current provision is the breadth and variety of voluntary organisations delivering services. There is concern that one or two providers end up delivering the vast majority of services, to the exclusion of smaller providers. If HMPPS have expectations that no one provider should have more than a specific percentage of the contracts, this should be made clear in the commissioning process.

The budgets for the women's estate appear to represent significant reductions compared to the existing budget. This risks appearing to be a policy decision to disinvest in the services provided in women's prisons.

Some organisations welcome an increase in budgets for the lots they are looking to bid in:

- *"We welcome an increase in the contract value for the lot that we are interested in. The lot budget has increased but I think establishments will want a lot of services in return looking*

at the high-level specification. Many of the governors writing local specification has no knowledge of writing specifications and contract management."

- *"The uplifts to the base budgets are welcome. However, the volume of work at a category B prison, given the churn of prisoners, would be higher than at a category C prison where the population is more static and families are not 'new' to visiting. The requirements of KPI 1 (assessment of need) will sit mainly with category B prisons and will take up a considerable amount of the indicative budget for these prisons."*

There is concern about the accuracy of breakdown of the budgets per lot/prison. For example, lot 39 has £181,000, yet the individual prison budgets add up to £202,000 (HMP Channings Wood £82,000, HMP Exeter £46,000 and HMP Dartmoor £74,000).

There is an understanding that the individual budgets have been based on the operational capacity of each prison and there is some concern about how the individual lot/prison budgets have been arrived at:

- *"Prison numbers are currently 79.5k as of November 2021 MoJ.gov.uk (2021) prison numbers are projected to increase to 98.7k by 2026 MoJ (2021) within the timeframe of the new contract, has the budget been adjusted to account for this anticipated increase in prison numbers in addition to indexation links."*

Question – Will the budgets be adjusted year-on-year in line with the change in population of individual prisons/lots?

There is concern that in real terms, once allowing for the replacement of refreshment income, the budgets represent a real terms cut:

- *"If you take out the provision within the budgets for the refreshment facility (which is a profit and loss commercial provision) what is the actual 'real term' budget to deliver core contract service delivery and the subsequent 'real term' uplift against current budget levels"*
- *"There is a gap in understanding how prison budgets have been derived. What was the rationale?"*

Weighting on cost

There is concern about the 30% weighting based on price. There is concern, particularly from smaller organisations, that there will be pressure to bid under the contract value, despite recognition that the budgets are already tight:

- *"We question the benefit of including a weighting on pricing in the scoring. The budgets for these contracts are very small, and the delivery specification is considerable. Given the detailed accounts that current providers have shared about the true cost of delivery, for the price to be driven down further by this element being scored, will significantly impact on quality and delivery as a 'race to the bottom' will occur. The inclusion of a scoring based on price could favour incumbent providers who could use their knowledge about refreshment income to reduce their contract pricing, knowing they can make up the shortfall. This knowledge would give an unfair advantage. The scoring on price also disadvantaged smaller VCS provider who don't have other income streams such as donations to bolster contract income, again leading to under-pricing of tenders. In order*

to retain a diverse provider network, we would urge the scoring criteria to be reviewed, with the removal of pricing as a criteria."

There is experience from the commissioning of some women's services under the probation programme where the payment mechanism for the wellbeing call-off contracts was a fixed price.

Recommendation – A fixed price approach to these contracts should be adopted.

Refreshments

There is some concern about providers overseeing refreshment delivery:

- *"We don't agree that any successful provider should oversee a refreshment area that they are not responsible for or actually delivering. The payment process for the prisoner staffing the T Bar needs further consideration as provider cannot employ them so how would this process work?"*
- *"The refreshments provision should be aside from the core delivery contract and set as a commercial profit and loss service. It appears they are merely re-running the current model, which has proven not to work, except now with 'uplifted funding' but again, the question is what that represents in 'real terms'*
- *"Refreshments should be separate to FSO contracts. This achieves the aim stated by MOJ that tea bar revenues should not be used to support FSO delivery as the surplus is not part of the funding model. It also removes any potential commercial advantage of tea bar income being used to under-price the delivery of core services. This also allows prisons to retain running the tea bar themselves, or to put it out to market."*

Generally, organisations seem to prefer refreshment provision being separate to the core specification. This would enable to ensure that any costs/surplus are not used against the delivery of the core specification. As it stands, there is a risk of continued confusion that refreshment income is used to subsidise core delivery.

Recommendation – Refreshment provision should be separate to the core specification.

There were two main areas of feedback on the 50:50 split of surplus income. First, the **principle of splitting surpluses between the provider and HMPPS.** There is a clear concern that any surplus resulting from money spent by the families of people in prison should be reinvested back into supporting families in that prison. Organisations seem to prefer a model whereby the refreshments provision for visitors can be contracted out externally by the prison, and any surplus is ringfenced by the provider and reinvested into 'added value' in the support of maintaining family relationships.

- *"Either the prison should run the tea bar and provide the funding to deliver the requested services, or allow the service providers to continue this service, and they can use the profit to add extra value to the service."*
- *"If the budgets for our current delivery are reduced, the detail of the restrictions on using any potential surplus will be even more important to us."*
- *"My purely personal view would be to forget giving 50% of the surpluses back to HMPPS; instead reduce the prices charged a little and ask providers to submit evidence that any surpluses generated have been used solely to add value. Providing refreshments is important but more work needs to be done on the model advocated."*

- *"It is not clear as to the reasoning and rationale of MoJ/HMPPS of imposing a claim of a large % of surplus profit without being exposed to any financial risk. If they have an expectation for a share in the profit, they should take a proportionate % responsibility in regard to financial risk."*

There is concern about the rationale of a price cap. If this is to keep the costs of refreshments down for families, this would be welcome, and this price cap should apply to all prisons, regardless of whether the catering/refreshments is contracted out. However, if the cap is to manage the surpluses of providers, this feels less justifiable, particularly in a situation where other prisons that run these in-house will be able to continue operating different prices.

The second area of feedback on the 50:50 split of surplus income is on the practicalities:

- *"There does not seem to be any plans for how HMPPS will reinvest the 50% of surplus. For small charities bidding and delivering these contracts the 50% is significant for them in terms of viability / income generation / supporting core costs which enables them to deliver these contracts"*
- *"Our question would be what the intended use of the monies will be? Will these be reinvested in the specific service/ prison where the surplus is made or will they be consumed into a central pot?"*
- *"If the contract is fully funded in relation to all requirements and doesn't require any financial contribution from the refreshment service then a split is feasible."*
- *"We are unclear on how the proposed changes to refreshment surpluses will be managed. It would be useful to have detail on the specific things that we will be allowed to use any surplus that is made for and how this will be reported and overseen."*
- *"Would it be for each prison to allocate where this retuned income is spent, would it be an area wide consideration and would it be dedicated to improving family services. How will we know how much is in the accumulative fund and how would this be ringfenced for such improvements. Who will manage the fund?"*
- *"Money going back to HMPPS should be ringfenced for improvements for families. Ensure transparency around accumulation of this money and how it's spent."*
- *"Where does the 50% of tea bar surplus go to. This should go back to the establishment that tea bar is situated so that hopefully the surplus can be reinvested back into the children and family services at that establishment."*
- *"How will the financial information about refreshments be shared with potential bidders in order that the incumbent provider is not at an advantage in pricing their bid? Where does the liability of refreshments making a loss sit? Will this be underwritten by HMPPS?" If the loss is solely the responsibility of the provider, this feels unfair given that 50% of profits would have to be shared with HMPPS."*
- *"A similar expectation should be in place where prisons run refreshment facilities internally so that profits from this can be used to enhance family services."*

Recommendation – Regardless of how refreshments are provided, the proposed split of surplus refreshment income should be removed. Providers should instead be required to ringfence surpluses and reinvest them into additional added-value services in the prison.

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5% performance pay

There is widespread concern about the contract having a performance-related pay element. Although it is accepted that the previous contracts had the ability to withhold a small percentage, this was not really used in practice. The particular concern is that the performance pay would be linked to key performance indicators that are not achievable.

Organisations are supportive of developing more effective and consistent contract management. However, there are concerns that a performance-related aspect would be within the context of under-developed contract management processes.

- *"The inclusion of a PBR element does not in itself deliver high standards and should not replace robust contract management, which has been lacking in some contracts. If PBR is to be used, the KPI's need to be achievable (see comments below). However, given the low value of these contracts, the likely prevalence of VCS providers who need to achieve full cost recovery and the proposal that price will be 30% of the scoring, thus likely resulting in lower costed models, the removal of a further 5% of the budget for PBR will further reduce services and quality of provision. The recent CRS contracts, which are of far higher value, have no PBR element and instead have robust contract management frameworks."*
- *"Essentially it would be sensible to only budget for 95% of the potential income which lowers the contract value before you even start"*
- *"Often performance can be impacted by HMPPS / prison establishments / out of provider's control which may mean achieving the outcomes is not possible - although it was stated this would be considered - it is likely you then end up spending so much time negotiating and justifying the reason for not achieving it makes the contracts more difficult to manage*
- *"PBR is rarely an incentive for providers and usually only hinders contract delivery"*
- *"As these are small budgets anyway that 5% could deter very small. local charities from bidding. It adds cost to the delivery budget for extra admin and will cost more your end as well."*
- *"I don't believe any PRP claw back (thereby reducing the financial framework to 95% of budget, further eroding the identified overall % value uplift) will be motivational / effective in maintaining high standards across the contract. Providers are working against very tight financial frameworks for this contract that alludes to the motivation for engaging with them as one of having an innate motivation to deliver quality and make a difference for those for whom we support and not seeing these contracts as an easy 'cash cow'. Unless MoJ/HMPPS have evidence to support a lack of quality across the current contract that would warrant such a clause being imposed within the new contract it is difficult to understand the justification except one of another way to reduce the overall financial cost of the contracts for MoJ/HMPPS. Maybe they should consider a 5% enhancement on exceeding KPI's as an alternative."*
- *"This would appear to generate another tier of administration - holding back £5,000 from a £100,000 contract would probably cost more than this to administer. High quality comes from having the vision and resources to do the job well."*

Recommendation – Remove the suggested 5% performance pay element and instead introduce effective and consistent contract management.

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Social value

The inclusion of social value is largely welcomed. However, this is a new area for the majority of organisations that are interested in bidding for these contracts – particularly given it was only mandated as a requirement from earlier this year and many of the organisations are small/specialist providers.

There is a need for more detailed information about the social value part of the specification, in particular explaining how this is being built into the contracts.

Recommendation - MoJ/HMPPS should develop more detailed information and run an information session for potential bidders, to support the understanding amongst organisations in the way in which social value has been included in this contract and to help organisations think about responding to this part of the bid in the most effective way. Clinks would be happy to support the development of this information and facilitate a session of this type.

Key performance indicators

There is recognition amongst organisations of the need to improve standardised measures of quality and impact.

- *"Standardised reporting document is required as part of the contract management process, to include evidence of quality of service, compliance and ensure national standards can be maintained."*

However, there is concern that the draft KPIs would not help to achieve quality or measure impact, simply compliance with rigid measures of output. The proposed KPI's are highly problematic:

- *"Doesn't necessarily guarantee quality of service only compliance ie: visitors centre may be open 100% of time but provider could still be offering a poor quality of service."*
- *"We are unclear what the 'clawed back' money will be used for if a KPI is not met and also the thresholds that will be applied to KPIs to determine whether or not the 5% is received."*
- *"We are concerned about this as a smaller provider. All organisations adopting a prudent financial approach will have to contingency plan based on worst case scenarios. If budgets are reduced this creates further difficulties. We don't have a problem in principle with the KPis identified - but we are concerned about the thresholds at which any such claw back will be enacted and what this means in terms of providing providers with certainty in planning the new services; given the values are not huge, 5% is a significant chunk to have 'at risk'."*
- *"Having KPI's 1,2,3 give a focused measurable quantifiable benefit to the prisoner and their families."*
- *"KPI's are only achievable if they are realistic and relevant to the service offer. If the VC has to be open 100% of the time, more clarity on this is required before agreement. The KPI is too vague."*
- *"The KPI's are very quantity focused and do not assess quality - there is a risk that pressure on KPI's is a move away from providing quality services."*
- *"The KPIs and other performance metrics and reporting which I've seen in some of the family support provision contracts don't track meaningful interventions. They seem to be just a series of tick boxes, for example: x calls made / x received. In the examples I've seen*

first hand, this sort of reporting and management makes not a jot of difference to outcomes for prisoners. And I agree that it might divert the focus for family staff."

Question – Will providers be able to make use of existing assessment processes to receive data (e.g. basic custody screening tool / OMiC) or is there an expectation on family services staff to assess everyone on induction? In some prisons this would require a full-time worker due to the number of daily receptions and will be a significant drain on the overall budget.

The voluntary sector is experienced in developing SMART outcomes – outcomes that are specific, measurable, achievable, realistic, and timely – however the current KPI's are not SMART and instead are very output driven. There is a willingness amongst organisations to work collaboratively with MoJ/HMPPS to design outcomes and impact measurement that helps show the quality and impact of the services being delivered under these contracts. This could include, for example, client satisfaction measures.

Recommendation - HMPPS should work with organisations to develop standardised impact measurement across the core services that are being delivered. This could include a session with potential bidders to help co-design SMART outcomes that would form part of the resulting contract.

The specific feedback on the four KPI's largely relates to the uncertainty amongst organisations as to what will be expected at an individual prison level. This can be combined to the wider concern that prisons may not have enough connection to what it costs to provide services, and therefore there are concerns about unrealistic expectations about what is required.

Specific feedback on KPI 1 – Assessment

- *"The concept for the assessment of all prisoners within 2 weeks is not problematic in itself but the process needs further clarification and a standardised assessment document will be required before we could sign up to that. What would the assessment consist of and where would this information be housed and acted upon. One Family Engagement worker could not provide this in any size prison population but especially those prisons that house up to or over 800 men and women. An average number of new receptions at the larger prisons is circa 40 per week, if each assessment takes 1 hour this takes 40 hours per week without any breaks or work associated with that assessment."*
- *"More work needs to go into how this applies to a local prison in particular: "Not sure how you assess every prisoners at a local prison that a through put of 6,000 prisoners a year"*
- *"Prisoners do the basic custody screening tool when arriving at local establishments and get asked questions about children and families. If they highlight a need around this area then could be referred to the family provider to work with them should the establishment require this service as part of their core service."*
- *"What is the purpose of this KPI? Is it to provide baseline information about the family status of prisoners? If so, this should be done at reception as part of the booking in process by officers, with referrals made to FSOS provider if appropriate. If it is safeguarding, undertaking an assessment two weeks after arrival is far too late. A 1-1 assessment would be required given the sensitive nature of this discussion. In a category B prison, with high churn, prisoners are likely to be located all over the prison after day 1, so locating them, doing the assessment and inputting this onto pNomis has a considerable resource implication, which is not reflected in the Category B uplift. This assessment would need to be repeated when remanded prisoners were sentenced as their situation is likely to have changed. The indicative budget does not provide sufficient resource to meet this KPI, which is one of the six elements of the core specification."*

- *"This will largely depend on the prison - for example, providers running services in a prison that is 80% remands/unconvicted would simply not have the staff resources to conduct such assessments themselves. This KPI needs further clarification."*

Specific feedback on KPI 2 – Engagement

- *"The average stay at my local establishment is 59 days for prisoners."*
- *"KPI2 - the wording of this KPI suggests all prisoners assessed will have a need; there is no 'no need identified' category. What does 'isolation' in priority 1 mean? What is the nature of the 'external engagements'? Prisoners cannot be forced to engage, yet providers will be financially penalised where they do not."*

Specific feedback on KPI 3 – Visits centre

- *"We have no issue with the compliance aspect of the Visitor Centre being open but more clarity on what times this includes etc."*
- *"The opening of the visits centre is often not in the control of the provider; it is operated by prison staff."*

Specific feedback on KPI 4 – Social value

There is widespread support for the ethos and commitment to demonstrate recruitment processes that attract a diverse workforce. However, there is significant concern about the impact on existing members of staff and the extent to which organisations are responsible (for example, given the role of prison vetting and the challenges in clearing people with lived experience).

- *"KPI 4 is impossible to achieve as providers/employer have to operate within employment law therefore there is no grounds legally to remove any current staff from a job because they don't meet a particular demographic. These contracts would not fall under the Equalities Act which would enable employers to advertise from a particular demographic only. The provider should commit to recruitment processes that endeavour to attract staff from diverse backgrounds and this is the only thing that could be open to scrutiny."*
- *"The employment of prison leavers is an excellent intention but provider staff have to be cleared through the vetting system in order to work on these contracts, sometimes at CCT level, to draw keys to carry out their role and to access prison IT systems such as PNomis. Will HMPPS guarantee that prison leavers that we employ will be cleared to undertake the tasks listed above. Currently we have had family members with no previous convictions but with a loved one in custody at other establishments who have been refused clearance on this basis. Will all prisons sign up to this prison leaver ideal if necessary?"*
- *"The 4th will be out of our control, as we can only recruit from our adverts."*
- *"Whilst the aim of this is positive, the practicalities are very problematic*
  - the workforce is already in place, so providers will not be able to change this to reflect the diversity of the prison community"
  - which characteristics are to be reflected? 90% of prisoners are male, yet this area of work is almost exclusively female, just as Probation is
  - employing prison leavers in prison based roles is very difficult and not in the gift of providers as HMPPS / governors determine whether this can happen (usually it can't)
  - given the small number of staff who are likely to be employed at each site, a reflective workforce is very aspirational, yet is a PBR linked KPI"
- *"KPI4 - considerable concerns about viability of this measure as detailed above. FTE contract workforce may be 1 or 2 staff. Who will define 'groups under-represented in the workforce'? Employment of prison leavers is highly problematic in prison based roles and*

providers have no control over this. This measure is not applied to other, much larger, contracts e.g. education, maintenance etc or to HMPPS staff. There is an existing workforce which is usually static, so very limited opportunity to change demographics, particularly due to very small total workforce in many lots. Recruitment should be based on ability. Providers can undertake positive actions to attract applications from under-represented groups (once these are defined) but cannot positively discriminate to achieve this KPI"

- *"A number of these KPI's would also disadvantage providers working in category B prisons, for example KPI1 will be a significant element of a category B service, but less of a feature in category C / D as the assessment will have been done previously, so the financial risk to a provider in a category B prison will be much higher. Some prisons do not have a visitors centre so KPI3 would not apply."*
- *"PNomis appears to be suggested as the recording tool. Does it have the capability to produce the necessary reports, or will providers need to maintain a separate record, thus taking additional time to record in two locations."*
- *"The specification states 'local KPI's may be added at the point of contract award' - presumably this will be through negotiation with the provider, rather than imposed?"*
- *"There is concern across the sector that those with lived experience are not being cleared through HMP Security vetting for appropriate roles, therefore, this creates a barrier to achieve KPI 4 that sits out with the organisations' control."*
- *"We are hoping that providers will be able to adopt a 'phased approach' as they align their workforce / volunteers to match the diversity of the prison population where this is not already the case."*

Dynamic framework / Bidding process

There are a number of organisations that we understand still need to qualify on the Dynamic Framework to enable them to bid. We have signposted them to MoJ commercial colleagues for support with this, and will we check in with these organisations in early January to establish whether they have qualified ahead of the competition going live.

A number of organisations raised questions about the bidding process, and in particular how the process would work where lots are made up of a number of prisons. It has been suggested that there is space in each relevant section of the application to allow for the word count to be increased proportionately to reflect the number of prisons in that lot. This seems to be the case for some of the draft technical and commercial questions (e.g. Q1A) and this should be extended to all relevant questions (e.g. Q2A, Q3A, Q4A, Q5A and Q5B) to enable organisations to show how they would respond to those questions in each of the prisons that they would be delivering in.

Partnerships and sub-contracting

There are some concerns amongst organisations about the viability and practicalities of development of partnerships and sub-contracting arrangements. In particular, the budgets appear to be prohibitive to meaningful partnerships. In the absence of a dedicated capacity-building to support partnership development, which given the timescales of the competition is not possible, the ability to develop partnerships appears to be constrained.

- *"Partnerships can be more costly due to numbers of management charges."*
- *"Give extra money to providers that form partnerships as if they don't the contract values decrease as the prime top slices some of the money straight away."*
- *"There is very limited funds available in the indicative budgets, and an expectation of partnership working. Will providers be penalised in scoring for not involving partners, even if budgets do not allow this (given the workforce is likely to TUPE and therefore there will be limited scope to introduce new partners). Will MOJ place a cap on 'management fees' that can be top sliced by prime providers where tiers of providers are involved in a delivery model? Where 'prime' providers bid, will there be clear expectations about how they will support their supply chain following market stewardship principles?"*

Annex A – Recommendations from Clinks' paper on the future commissioning of prison family services

In 2020 Clinks produced a paper on future commissioning of prison family services, which included six recommendations that remain relevant, and so are reproduced below.

In order to enable the HMPPS family contracts to effectively support prisons in implementing Lord Farmers Recommendations, the following recommendations have been identified:

Recommendation 1:
Increase the budget available for family service contracts, in order that they reflect:

- The identified needs of the prisoners, families and establishments. An alternative needs-led model could allocate funds based on identified need, rather than price per head: regional budgets allocated to Prison Group Directors, who then distribute funds to individual establishments based on evidence-based specification proposals. Individual establishments would be responsible for developing proposals informed by their understanding of current delivery and the needs of their own communities (see Recommendation 5).
- The real purchase price of family interventions
- Annual inflation rates
- Demands of HMPPS family policy and practice guidance.

Recommendation 2:
Commissioners and prison staff should work with providers and review the significant amount of data and evidence gathered by providers, to develop an improved understanding about:

- The range of family service interventions that can be delivered by providers
- The impact of different family service interventions
- The views and experiences of prisoners and their families
- The knowledge, expertise and training held by family service staff
- The added value brought by provider organisations.

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Recommendation 3:
Build on the RR3's previous recommendations for commissioning of family services and ensure that effective procurement processes are supported by:

- Realistic timeframes
- Sufficient staffing
- Effective communication channels between commissioners, prison group directors, prison staff and providers
- Clarity about roles and responsibilities associated with procurement and contract management
- Training, information and guidance for prison staff, Governors and prison group directors.

Recommendation 4:
Develop improved contract management processes by:

- Identifying consistent Single Point of Contacts (SPOCs) and contract managers at each site with clear roles and responsibilities and knowledge/experience of family service provision
- Maintaining effective communication channels between central procurement teams, individual prisons and providers.
- Minimising contract variation (by developing effective specifications – see Recommendation 5), but where needed ensure: effective communication with Provider prior to change, clear roles and responsibilities for HMPPS Commercial team and senior prison staff, sufficient resource available to support variation and adequate time allocated to affect change
- Standardising contract management processes across the estate with guidance, training and support for prison staff to implement effectively.

Recommendation 5:
Develop achievable, needs-led specifications by:

- Identifying and responding to evidence of service user need
- Engaging informed, experienced staff and partners in developing specifications
- Reflecting demands of existing HMPPS family service policy/guidance as well as relevant prison strategies (Family and Significant Others, Care Leavers, Reducing Reoffending and OMiC delivery model)
- Understanding current family service delivery model: what is delivered, what works, where are the gaps and the 'real' cost of delivery (including provider subsidisation)
- Understanding what family interventions are available, their 'real' cost and what outcomes they can achieve
- Being realistic about what can be delivered within the available budget and providing clarity about essential and desirable activities and the specific outputs required.

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Recommendation 6:

Ensure that prisons work with providers to understand and provide the additional resource and support required to deliver family service contracts effectively. Memorandum of Agreements should be co-produced by establishment and provider at the start of contracts and include:

- Staff resources: including Single Point of Contact (SPOC), profiled staff to support family interventions, protected time for staff to attend regular contract review/development meetings and staff resource to support maintenance of family service areas (such as visit centres).
- Training: access to appropriate prison training for volunteers and family staff as well as training and support for prison staff to understand and engage with the family agenda.
- Administrative resources to ensure swift and efficient: prison security clearance for family services staff/volunteers, public protection checks for extended visits/interventions, risk assessments and health and safety processes for provider staff.
- Physical resources to enable the effective, safe and secure delivery of family services.
- Safeguarding of family staff: contribution to risk assessments, provision of appropriate training and co-developed duty of care guidelines.