

## Clinks briefing on Ministry of Justice's Transforming Rehabilitation market engagement events

May 2013

### Introduction

This briefing outlines some key pieces of information which were shared at the recent Ministry of Justice (MoJ) market engagement events dedicated to the proposals in the government consultation response *Transforming Rehabilitation: A strategy for reform*.<sup>1</sup> These provide some further detail how the proposals contained in that document will be implemented, including draft timescales for competing and awarding contracts.

Clinks would stress that the design stage of the competition to provide services to low-medium risk offenders is not yet complete, and a fuller picture of what certain proposals will mean in practice should emerge over the next few months. In the interim, we are able to share some details on how organisations can register their interest in becoming a provider within one of the new contracts, the payment model which will be utilised and a number of market stewardship initiatives which aim to ensure that small to medium sized organisations are represented in the provision of services.

### Prior Information Notice

MoJ has issued a Prior Information Notice (PIN) to alert the market that it intends to compete 21 contracts for the provision of offender services to low-medium risk offenders across England and Wales.<sup>2</sup> These contracts will correspond to the 21 Contract Package Areas detailed in the document. The total value of the contracts to be let is likely to be between £5bn and £20bn over ten years. The formal competition and invitation to tender will be announced in August 2013.

**Any organisation which may wish to become a provider under the new arrangements should register its interest via a [registration form](#) on the Ministry of Justice website.**<sup>3</sup> This is **not** restricted to potential primes, and Clinks would therefore urge any of its members who may wish to provide services to offenders as part of one of the new contracts – whether as a prime, in a consortium or as a Tier 2 or Tier 3 subcontractor - to register as soon as possible.

Registered organisations will receive all further communications relating to the proposed reforms, including more detailed information on the design of the new contracts.

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<sup>1</sup> MoJ. 2013. *Transforming Rehabilitation: A strategy for reform*. Online: <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/results/transforming-rehabilitation-response.pdf> [last accessed 30.5.2013].

<sup>2</sup> Prior Information Notice for Ministry of Justice Rehabilitation Programme. Contracts Finder. Online: <https://online.contractsfinder.businesslink.gov.uk/Common/View%20Notice.aspx?NoticeId=917362> [last accessed 30.5.2013].

<sup>3</sup> MoJ. 9.5.2013. 'Prior Information Notice'. Online: <http://www.justice.gov.uk/transforming-rehabilitation/prior-information-notice> [last accessed 30.5.2013].

Registration is also a crucial part of MoJ's market engagement strategy and offers an opportunity for organisations to begin supply chain development ahead of the formal procurement process. Participants will be asked for permission for the information from their registration form to be published within a Provider Network Log and made available to all other registered parties.

It should be stressed that registration does not commit organisations to any form of service provision, nor is it a guarantee of eventual business or partnership opportunities. Primes are **not** bound to engage or subcontract with organisations who have registered through MoJ. However, if they do form partnerships through the registration process, they are required to use the industry standard contract (see below) developed by MoJ and NOMS to ensure fair subcontracting arrangements.

## Restructuring the existing Probation Service

Between now and next year, the existing Probation Service will be restructured into a new national Probation Service and 21 new government-run companies ('Newcos') mapping onto the 21 Contract Package Areas. These will encompass all the business to be contracted out and will be transferred over to the winning bidders following the completion of competition.

## Commercial model

The payment mechanism for a contract will comprise three elements:

- A fee for service (FFS) payment mechanism to pay for the delivery of **mandatory services**, including court requirements, licence conditions and through-the-gate services;
- A payment by results (PbR) payment mechanism to reward providers who demonstrably reduce reoffending within their cohort;
- A performance mechanism to disincentivise poor performance, including remedies for services not delivered to time or which do not meet a certain standard of quality.

As outlined in the government's response document, PbR outcomes will be determined by both complete desistance from offending on an individual basis **and** a reduction in the frequency of offending across the cohort.

MoJ/NOMS will also impose financial and contractual penalties if minimum levels of reoffending are not achieved, if reoffending rates increase significantly and when offenders' risk level escalates to the point that they require a transfer back to the management of the public sector Probation Service.

## Market stewardship

Evidence of market stewardship principles will form part of the evaluation process. Potential primes need to demonstrate how their supply chains will utilise Tier 2 and Tier 3 providers (see below) and harness local expertise and knowledge.

## 'Tiers' of the provider market

NOMS will engage with the market in different ways for each of the elements of the supply chain, or 'tiers':

### *Tier 1: Lead Provider*

- Must be a legal entity capable of managing the necessary service delivery and withstanding operational and financial risks;
- It is expected that the majority will be either large private sector organisations or consortia with a sizeable private sector component;
- However, MoJ/NOMS are not ruling out that some contracts will attract potential winning bids from VCSE organisations, mutuals or consortia comprising entirely of SMEs, VCSEs or mutuals.

### *Tier 2: Service Providers : VCSE/Mutual/SMEs/larger private*

- It is anticipated that this tier will predominantly comprise delivery organisations, contracting directly with the top tier;

### *Tier 3: Local and community VCSE*

- Includes primarily small grant funded organisations who may underpin delivery or operate in a space where access to offender groups is beneficial to the delivery organisations.

Tier 2<sup>nd</sup>/3<sup>rd</sup> tier providers on the MoJ registration list are entitled to contract with different primes in different areas. NOMS will not preclude providers from being part of a consortium bid and also being registered as a Tier 2 provider.

## Protecting Tier 2 and 3 providers

In order to protect and strengthen the position of Tier 2 and Tier 3 providers in the new market, MoJ/NOMS will:

- Register potential Tier 2 and 3 providers and provide a comprehensive list of organisations to all potential primes through the registration process outlined above;
- Create industry standard contracts, enshrining the market stewardship principles of the Merlin Standards, to ensure that subcontractors and VCSE organisations are treated fairly by primes (NB. This will only apply where subcontractors have completed the MoJ registration process);
- Require primes to sign up to clear market stewardship principles within the prime contracts;
- Incorporate market stewardship into the bid evaluation process, by making it a clear criteria for potential primes to reach threshold quality scores.

## Local partnership working

Moj/NOMS propose to hold a series of events (at least one in each Contract Package Area) during September/October 2014 to give bidders the opportunity to meet key local partners and to understand existing local priorities, partnerships and crime reduction initiatives, including IOM arrangements.

## Forthcoming document

Moj/NOMS will release several documents over the next several months outlining further details of the new reforms, including:

- A revised version of NOMS Service Specifications;
- Payment mechanism for contracts;
- Principles of competition.

## Proposed timescales

End July 2013 – complete design work

August 2013 – launch competition

Winter 2013/2014 – evaluation

Autumn 2014 – new services in place

## Feedback

Clinks welcomes any comments or queries about this briefing via the online [Clinks Network](#) or by emailing Katie O'Donoghue, Policy Officer ([katie.o'donoghue@clinks.org](mailto:katie.o'donoghue@clinks.org)).

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