
TRANSFORMING REHABILITATION: A STRATEGY FOR REFORM

**Responsible Cabinet Member - Councillor Bill Dixon,
Leader and all Cabinet Members**

Responsible Director - Murray Rose, Director of People

SUMMARY REPORT

Purpose of the Report

1. To request that funding of £1m be made available by the Council to lend to the Achieving Real Change in the Community (ARCC) Community Interest Company (CIC) to enable the company to tender to run the Durham and Tees Valley Probation Company.

Summary

2. The Council along with partners have successfully completed the Pre-Qualification Questionnaire (PQQ) of the tendering process to operate the Durham Tees Valley Probation Service company. To enable the consortium to progress to the final stage of it must agree to advance an £8.4m loan to the C.I.C. to enable it to operate in the initial years. The loan should be repaid over a number of years however there will be a risk that such a loan may take longer to repay or is not repaid in full. A process is being established as part of the bidding process to minimise the risk to the consortium.
3. In discussions with the consortium it has been proposed that the Council will make a £1m loan to the C.I.C.
4. Final decisions on the release of the funding will be made by Cabinet at a future meeting.

Recommendation

5. It is recommended that Cabinet recommend the following to Council:-
 - (a) That £1m from Council reserves be earmarked for a loan to the ARCC C.I.C. should the company be the successful tenderer for the Durham and Tees Valley Probation Service company.

- (b) That a further report be presented to Cabinet prior to the submission of the tender explaining how the financial risk of the tender has been minimised to the Council.
- (c) The appointment of Miriam Davidson, Director of Public Health to the board of ARCC be approved.
- (d) Cabinet approve a share of the costs of the tendering process.

Reasons

6. The recommendations are supported by the following reasons :-
- (a) To put in place approval for the required funding.
 - (b) To ensure risk is minimised.
 - (c) To appoint a board member
 - (d) To fund the tendering process

Murray Rose
Director of People

Background Papers

No background papers were used in the preparation of this report

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TAB

S17 Crime and Disorder	“Transforming Rehabilitation: a Strategy for Reform” sets out plans for radical change to Probation services.
Health and Well Being	There are broad but no specific impacts.
Carbon Impact	There is no specific carbon impact.
Diversity	There is no specific diversity impact.
Wards Affected	All wards affected equally.
Groups Affected	All groups affected equally.
Budget and Policy Framework	The recommendations included in this report require Council approval as they represent a variation to the framework.
Key Decision	This is a Council decision.
Urgent Decision	This is a Council decision.
One Darlington: Perfectly Placed	The participation of DBC in the ARCC consortium supports the role of the Council as lead of the “place”.
Efficiency	There is no specific impact on efficiency.

MAIN REPORT

Information and Analysis

7. At Cabinet on 1 October 2013 it was agreed that the Council would support the development of a consortium bid and receive further reports as more detail becomes available. The original report is available on the Council's website at <http://www.darlington.gov.uk/PublicMinutes/Cabinet/October%201%202013/Item%208.pdf>

8. Since this meeting the following has occurred.

A consortium of the following established a Community Interest Company (CIC) of the following:

Darlington Borough Council
Redcar and Cleveland Council
Stockton Borough Council
Tees Esk and Wear Valleys NHS Mental Health Trust
The Vardy Foundation
The Wise Group
Fabrick Housing Group
Safe in Tees Valley
Changing Lives NE, CIC

(a) The consortium agreed in principle the following split on funding the cash flow required, the submission was made on the basis of £8.4M:

	£m's
Darlington Borough Council	1.0
Stockton Borough Council	2.0
Redcar & Cleveland Borough Council	1.0
The Wise Group	0.2
Safe in Tees Valley	0.2
Fabrick Housing Group	1.0
The Vardy Foundation	3.0

(b) A submission made to the PQQ process was successful, the consortium was short-listed to compete for the contract and invited to submit an offer.

(c) In consultation with the Leader, Miriam Davidson was appointed as the Councils' Board Member on ARCC, the Consortium C.I.C.

The Tender Process and Timetable

9. Briefing for bidders on procurement details are taking place between February 2014 and June 2014 including a series of data "drops" in the same timescale. The competition process leading to the contract award and new ownership of the Community Rehabilitation Company will conclude in October 2014.

The Council's ongoing Commitment to the C.I.C.

10. Previous approvals by Cabinet gave officers powers to develop the proposed consortium bid but not to submit a bid. To enable the Council to continue it must put in place approvals to allow the timetable to be met the most significant being Council putting in place £1m funding by way of a loan to the C.I.C. The C.I.C. needs the guarantee of funding before it can tender. It is proposed that Council are requested to provide £1m from revenue balances and that its release would be subject to a detailed report to Cabinet, see below in the financial implications for requirements of the report.
11. The running of Probation Services is not the Council's core business but it has come together with other members of the consortium to tender to ensure the high performing service continues. Partners fear that if the tender is won by a private sector company they will "strip out costs" to deliver profit for shareholders to the detriment of service users and constituent Councils as additional costs could fall on them as a result of actions of the company. It is also felt that if the consortium has control of the service there will be enhanced opportunities for improved working with Councils whereas the opposite may well be the case if the consortium is not successful. The consortium has agreed it will not take profits from the contract and that any surplus will be reinvested in the service.

Legal Implications

12. The Council can make use of the general power of competence to take on, in partnership, the role of running probation services in the Durham and Tees Valley area. At present there is limited information about the way in which the new Community Rehabilitation Company will be comprised, but there are likely to be governance issues for this Council. We will need to clarify the involvement of the Council on the Board of the new company and the arrangements between the members of the consortium and the Council for joint decision making and the sharing of risk.
13. There are likely to be a range of human resources implications arising from the transfer of staff from the current trust to the new Community Rehabilitation Company.

Financial Implications

14. There is no financial provision within the Council's approved MTFP to provide a loan of £1m to the C.I.C. The only available source of funding would be to earmark revenue balances for the loan should it be required. The repayment of the loan may well be over the 10 year life of the contract but until the tender is complete the actual repayment schedule is not certain, it may be spread evenly over the contract period or front/back loaded. At the expression of interest stage, consortium members anticipated they would not receive repayment in the first year to support contract mobilisation. Clearly the allocation of this loan will reduce the flexibility allowed within the MTFP to manage change and risks.

15. The contract for the service requires a payment process that is split between a fee for service (FFS), guaranteed payment plus a payment by results (PbR) element. The risks to the C.I.C. and subsequently the consortium are that costs are higher than the tender price and payments by results may be volatile. There is a Maximum Annual Payment (MAP) that is set on a constant workload but with a reduction over the period of the contract. There is expected to be a learning curve discount on the FFS over the contract period and increased reliance on PbR. These are real risks but in mitigation the current Durham and Tees Valley Service is high performing and low cost service so has a good foundation on which to build. The key is ensuring that the tender is adequately resourced to ensure such risks are minimised, that the proposed operating costs model is below the Ministry of Justice threshold whilst also giving the best opportunity of a successful tender.
16. The consortium will be engaging external support to assist in developing the bid and indeed this external validation is a pre-requisite of the tendering process. Before a final bid is submitted Cabinet will need to release the £1m loan and in doing so be satisfied that the level of risk it would involve is appropriate to the benefits winning the tendering will deliver.
17. The costs of completing the tender process for each Member of the consortium are estimated to be £20K therefore Cabinet are requested to approve £20K from balances for this purpose.

Appointment of Board Member

18. ARCC is a CIC Limited by Guarantee with a Board of Directors as per consortium partners formed as a pre-requisite to expressing an interest at the PQQ stage.