
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 seek Council approval to loan Achieving Real Change in the Community (ARCC) Community Interest Company (CIC) £1,000,000 from reserves as recommended by Cabinet on 1 April 2014.

Summary

2. The Government is moving ahead with plans to abolish the current 35 Probation Trusts. What will replace them are 21 community rehabilitation companies (CRC). After the completion of a tender process each CRC will be run by external providers who will have the contractual responsibility for delivering probation services to a particular geographical area.
3. On 1 October 2013, Cabinet approved a strategy to develop a consortium bid to tender to run the Durham and Tees Valley Probation contract. The tender is now ready to be submitted and it requires each of the partners in the consortium to make a loan to the Community Interest Company established for that purpose.
4. Cabinet have considered the progress made in developing the CIC and the risk to the Local Authority if the contract is awarded to an external provider. On 1 April 2014, Cabinet recommended to Council the approval of the loan required to establish the CIC.
5. The loan would be repaid over a period of time. There are risks in making the loan, for example, if the CIC performs badly and fails to achieve its expected income. Cabinet will receive a further report on the management of all financial risks before agreeing to enter into a formal agreement with the other partners in the CIC.

Recommendation

6. It is recommended to Council that £1,000,000 from Council reserves be earmarked for a loan to the CIC should the company be successful in its tender for the DTVPS.

Reasons

7. The recommendation is supported by the following reasons :-
- (a) To put in place approval for the required funding; and
 - (b) To enable the Council to further participate in the CIC bid to tender for the DTVPS and ensure risk is minimised.

Murray Rose
Director of People

Background Papers

No background papers were used in the preparation of this report

Miriam Davidson: Extension: 2463

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

8. 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%2013/Item%208.pdf>

9. Since this meeting the following has occurred.

A Community Interest Company (CIC) has been established by a consortium 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 Pre Qualification Questionnaire PQQ stage of the tender process was successful and the consortium has been short-listed to compete for the contract and invited to submit a tender bid.

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

The Tender Process and Timetable

10. 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 On-going Commitment to the CIC

11. 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 CIC. The CIC 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.
12. 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

13. 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.
14. 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

15. There is no financial provision within the Council's approved MTFP to provide a loan of £1m to the CIC. 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.

16. 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 CIC 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.
17. 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.
18. The costs of completing the tender process for each Member of the consortium are estimated to be £20K.