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11th January 2019

The Rt Hon David Gauke MP
Lord Chancellor and Secretary of State for Justice
102 Petty France
London SW1 9AJ

Dear Secretary of State

We write to express our collective concern regarding the proposal to re-let the Community Rehabilitation Company (CRC) contracts.

Even without making any presuppositions about the long-term future and viability of these contracts, we are very concerned over the short time frame that the government proposes during which it is intended to re-align and re-let these undertakings. Moreover, this project is set against the unprecedented political uncertainty to which we are all currently subject. This does not help, precluding, as it does, any prospect of supporting legislative amendments in the foreseeable future.

We hope you will agree that the implications of the making a further series of mistakes in the name of Transforming Rehabilitation (TR) are extremely serious for the probation services, for organisations working in partnership with probation – the courts, the prisons, the police service, local authorities and the voluntary sector, for many thousands of service users and for the public.

It is our view that these contracts should be taken back into public ownership as management operations as soon as possible and not later than 2020. This would then allow sufficient time to properly consider and plan for future organisational arrangements. There are a number of precedents for this type of arrangement. This arrangement would take the CRCs back into the public sector ownership which applied to them from their creation in June 2014 to their privatisation in February 2015. There would be no complex legal, legislative or employment changes required, as the CRCs would simply revert to the ownership model which applied when first created.

The currently proposed time-frame for re-letting the contracts is even shorter than that which attached to the original Transforming Rehabilitation project. It is now widely accepted that the TR procurement timetable was wholly unrealistic in terms of being able to establish efficient and effective arrangements for the provision of Probation services.

Some civil servants may hold the view that lessons have been learnt from TR which will inform TR2, and that the experiences of the last four years will make re-letting the contracts easier the second time around. We do not share this view and believe that these matters will be equally complicated under TR2.

These are some of the issues that still need to be addressed:

- Examination of the payment and profit model is required, especially as the costs for strengthened specifications is likely to increase delivery costs significantly.
- Restructuring of the National Probation Service to align with proposed new CRCs
- “Re-unification” of Wales; governance and management of the new arrangement in Wales
- More effective commissioning of third sector agencies
- Professionalisation including the proposed Regulatory Body with Professional Register
- Staffing issues including TUPE/Staff Transfer to new employers and related pension issues
- Rules in respect of monopoly provision – particularly since the proposed contract areas will be much larger.

This list is not exhaustive. Ministers will by now have seen the Delivery Confidence Assessment rating and we believe this should be made available under the Major Project Portfolio transparent data provisions.

Some of us were directly involved in the consultations and negotiations that took place under the original TR project. The rating assessment (risk register) was never made officially available at the time. In the event, some of us did have sight of it and some very serious risks were highlighted which were apparently (at the time) met satisfactorily. We now know that these risks were not properly assessed. Had they been so then the confidence of the courts, HMI, and the public as a whole might have been preserved. In our view there is a very real danger that re-letting the contracts now without proper and thorough consideration of the issues will result in the terminal decline of the Probation Service.

We do not believe it is wise to countenance a repetition of the shortcomings and mistakes associated with that original project and yet there is a very real likelihood that this is exactly what will happen if the MoJ adheres to the current proposals and the current schedule. These risks could be averted if the project is re-set in a realistic timeframe.

Much of the criticism of the current arrangements for the provision of Probation services centres on the split between the NPS and CRCs in core

offender management work. The Government has recognised this in the model that will be adopted in Wales. Yet there is no allowance in the timetable for any evaluation of the outcomes of this revised model in Wales prior to CRC contracts being re-let.

We very much hope that you will accede to our suggestion above. We would then feel more confident in offering you our assurances in respect of ongoing support and advice regarding the review of the contracts.

Yours sincerely

A handwritten signature in black ink that reads "Helen M Schofield". The signature is written in a cursive style and is positioned above a faint, light-colored rectangular stamp.

Helen Schofield – Acting Chief Executive – Probation Institute on behalf of

Ian Lawrence - General Secretary - Napo

Ben Priestley – National Officer for Police and Justice UNISON

Phil Bowen – Director – Centre for Justice Innovation

Richard Garside – Director – Centre for Crime and Justice Studies

Frances Crook – Chief Executive - Howard League

George Georgiou – National Pensions Organiser - GMB