

## Outsourcing of staff-led mutual from Devon and Dorset and Cornwall Probation Trusts

### Innovation Wessex Probation Mutual/Cabinet Office

Transforming Rehabilitation (TR) was a competition run by the Ministry of Justice to part-privatise the English and Welsh probation service. In January 2014 the Cabinet Office ran a tender competition for support to assist 10 groups of staff in Probation Trusts who wished to develop staff-led mutuals which could then bid for services being tendered through TR. RedQuadrant (with legal support initially from Bevan Brittan and latterly from Bates Wells Braithwaites) were successful in winning three of these tenders, including that for Innovation Wessex, a group of staff from Devon and Dorset and Cornwall Probation Trusts, who were interested in forming a staff-led mutual in order to bid for the services being tendered through TR, particularly those in the Dorset, Devon and Cornwall Contract Package Area (CPA).

#### **The challenge:**

The staff group and boards of the respective trusts recognised early on that they were not able to bid to run the entirety of the Dorset, Devon and Cornwall CPA as a “prime” provider, due to the level of resourcing required and the risks attached to the payment by results component of the contract. Both trusts were, however, interested in ensuring that local staff were able to be part of the bidding process in order to influence the final shape of the service to be delivered in their CPA and agreed that a staff led mutual was the best vehicle for delivering this.

Consequently an initial strategy was agreed upon which aimed to maximise the chances of success: for the prospective staff led mutual to build on existing partnerships with employment and housing providers to form a Joint Venture that would bid to be prime provider. This approach was abandoned in October 2013 when the service provider which was the main prospective funder of the Joint Venture, and on whose balance sheet the Joint Venture relied, reviewed its strategy and decided to bid in its own right to be prime provider with the probation mutual (now named Innovation Wessex) as a sub-contractor.

A partnership agreement was signed between both parties on this basis but in June 2014, three weeks before bid submission, the prospective prime provider withdrew from the TR competition.

At this point Innovation Wessex had no prospect of being part of the TR process and thus the original purpose of the project seemed unachievable; however, they approached Working Links, another prospective prime bidder, and came to an agreement to work with them. This resulted in a positive outcome with Innovation Wessex winning work in three CPAs.

The entire process thus had an unusual amount of twists and turns before reaching a successful conclusion. We were actively involved from the start of this process: offering input into bid and model development, whilst responding effectively to challenges from primes/potential partners on the proposed business model and service offer in order to ensure that satisfactory commercial agreements were reached.

A key challenge for all involved was to answer in a convincing manner the question of how a staff led mutual could add value to the TR process. The development of a persuasive and coherent argument and business case to answer this question was essential to sell this somewhat radical concept to potential primes and partners. We supported Innovation Wessex in developing their response to this challenge and demonstrating the clear value added by a staff-led mutual. A staff-led mutual allowed professional expertise to be retained within the service, could ensure that probation values and ethos continued to be important within the new service and that it allowed for the continuation and development of relationships across local landscapes. However, it was particularly important to define the nature of the services being offered and to show that there was added value in these being delivered through a staff-led mutual. We worked with the staff group to define the proposition in detail and identifying potential synergies and added value. The end product was a business plan with a menu of services that could be provided to potential prime providers.

This menu of services focused on quality assurance, market development and service development functions with a particular focus on offering innovation and good practice. We also worked with Innovation Wessex to review and challenge costs of these services taking into account the risks involved in unknown variations in demand for programmes and other services, the tariff structure of the TR bid itself, the payment by results component of the bid.

Equally important were the legal elements of this project. There were three components of legal support offered:

1. Advice on the form and nature of the mutual: Innovation Wessex was established as a Community Interest Company with probation staff as directors and Staff Council representation
2. Legal advice on the form and nature of the agreements between Innovation Wessex and the prime bidders at and before bidding stage
3. Legal support to finalise the sub-contractual arrangements with the successful prime bidder. These included the scope of services to be provided, the pricing mechanism for these services, asset transfer arrangements, back-office support arrangements, TUPE, secondment and pension matters.

### **What we did differently / innovations in our work:**

We had to be competent and confident of credibly offering and delivering a wide range of expertise to Innovation Wessex. This included the ability to act as a critical friend to their service offer, input into financial modelling, coordinating advice on legal and governance forms and their implications (from legal partners), advice on marketing and, critically commercial support in negotiations with primes. We had to demonstrate and then provide significant specialist subject matter expertise, combined with legal and commercial nous within a fast-changing, time pressured competitive process.

### **The outcomes:**

Innovation Wessex were included as sub-contractors in Working Links bids for the Dorset, Devon and Cornwall, Somerset, Wiltshire, Avon and Gloucester and Wales CPAs. In October 2014 it was announced that Working Links, in partnership with Innovation Wessex were successful in all three CPAs in which they bid. Innovation Wessex was commissioned by Working Links to provide services with an annual value of £0.5 million across the three CPAs. Of ten Cabinet Office supported probation mutuals only two – RISE and Innovation Wessex – went live; both were supported by us.

### **Who to speak to in order to learn more? Who was the lead Consultant? Who else?**

Frank Curran led the project for RedQuadrant.

### **Dates and duration of contract: June 2013 – February 2015**

### **Contact details of Lead Consultant / other key team members**

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