

From: Lorna Gibbs  
Disclosure Scotland  
20<sup>th</sup> August, 2018

PS/Minister for Children and Young People  
PS/Deputy First Minister and Cabinet Secretary for Education and Skills

## **Disclosure Scotland Transformation Programme – Urgent Request to Extend BT Contract to Ensure Service Delivery**

### **Purpose**

1. To update Ministers on:
  - the progress that has been made in delivering elements of Disclosure Scotland's new IT system;
  - some new challenges which have emerged which will mean that the delivery of some key processing functions by the IT suppliers will take longer than planned;
  - the work we have done to consider and weigh options to deal with the results of this delay; and
  - seek urgent approval to negotiate a 3 month contract with BT in order to ensure that we can provide a full safeguarding service.

### **Priority**

2. **Urgent.** This is a fluid situation but the accumulation of risk means that I have no option but to recommend we negotiate a 3 month contract with BT. As Ministers are aware we gave BT notice in May to terminate the contract in September. Our last option to withdraw this notice was the end of June. BT advise that it is now possible to negotiate a short new contract but if we wish to do so, we must advise them in the next two days.

3. I understand how disappointing this news is. The reasons behind it, and the risks of the options we have considered, are set out below.

4. It is important to note that this programme remains on course to deliver a robust and reliable replacement for the increasingly obsolete BT platform, putting ourselves in a position to be able to provide new and improved services faster and cheaper.

5. The issue is one of timing and the technical capacity of our suppliers BJSS to deliver new software to the schedules they set out. We are robustly engaging BJSS to ensure that their internal governance around accurate estimation of delivery meets the standards of our own, but we do not have any concerns about BJSS's ability to deliver a good software solution.

### **Background**

6. As Ministers will know, Disclosure Scotland is in the midst of a transformation programme that will enable it to assume full responsibility for the IT services

necessary for the operation of the whole disclosure system in Scotland. This will deliver significantly improved services for customers, value for money with considerable year on year savings and an appropriate platform to deliver the improved services that will emerge from the ongoing PVG Review. We have been working on this with our delivery partner, BJSS, since September 2016.

7. We have achieved a lot of very positive things so far including delivering the first elements of our IT system, **PASS (Protecting and Safeguarding Scotland)**, which is the start of us taking control of disclosure production into DS. So far 2,260 paper applications have been processed on PASS. Our online service for Basic Disclosures that do not require to have convictions printed on them has been used by just over 9,000 people with 95% of those who gave us feedback saying they are either satisfied or very satisfied, the vast majority very satisfied. We are very encouraged to get to that satisfaction level so early, and we will continue to learn and try to improve on that.

8. In addition we have:

- delivered early functionality for the PASS System allowing us to process clean (i.e. without convictions) Basic certificates;
- secured Home Office and Police Scotland approval to host police data in the cloud, a first in the UK. This is a truly ground-breaking solution. We have had to respond to new security requirements conceived specifically for this programme. Achieving this has involved developing a novel approach to security that will be of benefit to the whole public sector;
- deployed a new digital finance system which is now processing credit card transactions coming through PASS system. Invoicing via Sage is in process of being tested and nearing completion;
- deployed a completely customisable workflow system that will support current disclosure operations and which can readily change and adapt to support whatever new services follow the PVG review;
- developed comprehensive algorithms for the search and match of persons against the UK criminal records systems;
- conducted extensive user research in order to permit rapid shifts to digital online services when the core functionality to process disclosures is deployed in PASS.

9. The contract with the current supplier, BT, has already had to be extended to allow the programme to deliver the new technology necessary for Disclosure Scotland to start to use the new system. Based on the confidence levels expressed by BJSS at the end of May that they would be able to deliver the right functionality to acceptable timescales, we provided BT with notice that we would terminate the contract with them at the first break point, mid-September 2018.

10. At the Transformation Programme Board in June, we assessed the risks and readiness against identified criteria. [REDACTED]

[REDACTED] After seeking the views of Ministers, we then confirmed this position at the end of June which was the last point at which we could have contractually asked BT to remain in place. Since then we

have been working closely with BJSS to plan the delivery of the necessary functions, and until recently we were working to a plan which all considered to be conservative.

11. The mechanics of switching off a complex system and ending a longstanding contract mean that, although the contract lasts until the end of September, we need to stop using the BT system early in September to allow their systems to switch off by the end of the contract.

### **Current position**

12. We have always known that the innovative and complex nature of what we are doing would throw up challenges and the scale of these, and the possible impact of them on what we can deliver at key milestones, has become all too apparent over the past two weeks.

13. The programme is tightly governed and I receive regular updates on progress. We challenge BJSS constantly on the deliverability and risks of their work. It was as part of this regular challenge that we spotted concerns that BJSS have been overly optimistic. They have now provided a new dates to deliver key functions, most of which move one month to the right. This means that Disclosure Scotland, if it were to rely on the new system under development, would not be in a position at the end of August to effectively administer the PVG Scheme for a period until the functionality was restored. The extent of this would mean that:

- the functionality to join new PVG Scheme members would not be in place;
- the capability for the monitoring of new convictions for scheme members would be inoperable for a period; and
- it would not be possible for existing scheme members to obtain updates for their membership using the intended method

14. We believe that these problems, whilst severe, would be temporary and last for weeks rather than months

15. [REDACTED] Some of it reflects the nature of the work. As I said in the last submission, there are no risk free options. I remain confident that the end result of the programme will be a flexible, cutting edge digital service which will meet customer need. The programme is charting new territory which means that progress will continue to throw up unexpected challenges. [REDACTED]

[REDACTED] We will do a full lessons learned once the functionality is in place and working.

### **Potential workarounds**

16. We have long understood that the new processing technology would come on line in stages. This is wholly consistently with the agile approach. Under the plans in place in June, by 27 August we would have delivered the basis to allow us to start operations, albeit with internal manual workaround measures in place. As further software became available these manual processes would be steadily eliminated.

This was the premise for giving BT notice that they could withdraw. Our modelling supported a view that we would be able to overcome any issues that arose because these would be short lived and at a manageable scale. Our external stakeholders would not have noticed any change or reduction in service. There would have been no impact on our ability to deliver the full safeguarding service.

17. We have worked up options to deal with the reduction in functionality set out in paragraph 13. It would be possible, we think, to deliver a service but it would be some way below the current one and would present a high level of risk. In summary we would have to:

- process applications to join the PVG Scheme as if they were standard disclosures, first carrying out manual checks of the UK barred lists and police intelligence markers before keying in the application to our new system;
- individuals with police intelligence markers would be diverted to a manual workaround and a police force enquiry sent to ascertain if the police want to submit non-conviction information on the disclosure. If they did the PVG certificate would be created manually and sent out;
- for those with no convictions or with convictions but no police intelligence information, the employer and individual would receive a standard disclosure. An insert would tell them that this was a correctly processed PVG disclosure;
- for ongoing monitoring the automatic matching of new convictions to PVG scheme members would not be possible. Instead we would ask the Police to give us additional information about serious convictions. These would be 'caught up' when full system functionality is restored. scheme record update applications would be processed as if they were new applications using the method outlined above, using data extracted from the legacy BT system to validate that the applicant was a bona fide scheme member; and
- all of the above would result in increases to our turnaround times.

18. All of this is possible but would accrue the following risks:

- the whole plan depends on BJSS delivering Standard Disclosures by 27<sup>th</sup> August. As you will note below the confidence level that this will occur is below acceptable levels;
- customers would receive what will appear to be a Standard Disclosure in place of a PVG Scheme Record. This would carry significant reputational risks and would require strong defensive communications to explain the situation. The likelihood of this being picked up by the media and opposition politicians is very high;
- Disclosure Scotland would have to commission several new tracking systems and bespoke methods to carry out and assure vital safeguarding checks in a very short time. Whilst we believe we have the technical ability to do this the cumulative impact of such rapid development and deployment of emergency systems carries serious risks;
- Disclosure Scotland would need to adapt existing business processes in radical ways and train / redeploy many staff to deliver this workaround, all in a very brief window. This is possible but challenging; and

- the reliance on a significantly pared-back system for the ongoing monitoring of PVG Scheme Members brings safeguarding risks even with police assistance to push in more non-conviction information in lieu of the electronic transmission of serious convictions. This could eventually be caught up with but there would be a lengthy window of elevated safeguarding risk regarding the ongoing monitoring of PVG Scheme Members.

### **Worst case scenario**

19. We have a plan which sets out the work that must be achieved each day if we are to deliver the functionality to process Standard Disclosures by 27<sup>th</sup> August. I receive a daily update on progress, risks and available mitigations. As of Friday, BJSS's confidence that they will deliver was at 70%. Further work over the weekend has not changed that confidence level. They are unable to guarantee that no new issues which would threaten delivery by 27<sup>th</sup> August will arise over the next week. There is, therefore, a real chance that at very short notice we will be told that the 27<sup>th</sup> August date cannot be met. Even if it could, there will be no time to test and scale the new service before we would have to start using it to process live cases.

20. If the new functionality for Standard Disclosures is deployed but fails due to insufficient time for testing [REDACTED] it would not be possible for DS to provide anything other than a service to meet the demand for Basic Disclosures. That would, in effect, mean we would not deliver a safeguarding service for however long it took to get Standards online.

21. The consequences of not having a safeguarding service would be:

- some employers might start new employees in regulated work without the benefit of a disclosure. This might allow unsuitable people unacceptable access to children or to vulnerable adults. Disclosure Scotland gets disclosure applications from barred individuals and regularly places new disclosure applicants under consideration for barring because of their conviction history.
- alternatively, many employers would not fill critical safeguarding roles because of the non-availability of disclosures. This could threaten the delivery of key services in social work, education and health areas, engendering strong criticism from a wide range of political, organisational and customer stakeholders and having a detrimental impact on the economy and the reputation of the government for competence.
- the movement of people into and out of regulated work would become essentially untracked for a time, undermining confidence that the ongoing monitoring arrangements that are in place for scheme members apply to all whom they need to, now and in the future.
- new convictions for existing scheme members would not dependably generate consideration for listing investigations even when these convictions were of a serious character. There are some possible mitigations here in collaboration with the police but these would likely be for only the most severe cases.
- there would be a significant impact on the education sector as students with placements that represent regulated work would not be checked.

22. None of these represent an acceptable risk for safeguarding or for the reputation of Ministers or Disclosure Scotland.

23. We have reviewed a number of options for service deliver in the event that we could not do any higher level certificates. These were:

- asking the DBS to assume responsibility for basics and higher level disclosures until such times as Disclosure Scotland recovers capability. This would require significant back processing of new PVG members to enter them retrospectively into the Scheme and start ongoing monitoring;
- providing a 'life and limb' service by deploying our manual police browser trained staff on a helpdesk or other interface to provide appointment-based or real time screening for employers;
- postponing the operation of the disclosure regime and stockpiling applications until the necessary capabilities exist. If this period were a week or fortnight this may be difficult but possible, a longer period of suspension would make this option completely untenable; and
- asking BT if they can retain responsibility for delivering the service until we have the necessary functionality to deploy the workarounds that we had originally planned to have in place by the BT exit.

24. In order to make such a formal delegation to the DBS, they would have to agree to process these disclosures under Scottish rules. We do not believe they have the capability to do that. It would mean their adoption of our version of the rehabilitation of offenders provisions and applying the very complex offence filtration system we introduced by the 2015 Remedial Order. Added to this there would be the severe procedural complexity of routing applications cases to the DBS and later having to find a way to reconcile these applicants with the PVG Scheme membership. This option is entirely unfeasible as a formal delegation.

25. Providing life and limb cover for the most sensitive roles is technically possible using trained staff who would directly access police browsers and give indicative notice of convictions to employers. There is no legal cover in place for this method and there would be potentially enormous security challenges in giving out such information in this way given its sensitivity. Even if we could do this, only small numbers of checks per operator per hour would be possible. This would therefore only be available in the most sensitive and urgent roles needing to be filled. This option would engender significant political and public criticism and severe reputational damage as well as leading to severe consequences for the movement of people into jobs and training, with perhaps more risk-taking by employers which itself could cause safeguarding issues.

26. Stockpiling applications would cause very severe delays for applicants should the situation extend beyond only a few days. Even when full functionality was restored, it would take DS staff a long time to do the necessary retrospective reprocessing and enter the stockpiled applications. This would lead to extensive delays for customers that might persist long after processing resumed.

## BT option

27. Realistically, nothing other than the existing BT platform can provide a full service that the public will expect and which will maintain the safeguarding contribution of the PVG Scheme.
28. We have had an initial conversations with BT to see if they could offer any assistance. They have indicated that, in view of their own commitment to our safeguarding service over many years, they would be prepared to consider how they could keep the current system operating longer. We are too far down the exit of the current contract to extend it and we would therefore have to negotiate a new contract with BT who would, in turn, have to negotiate new arrangements with their supply chain. BT have said that any contingency arrangement must be for a minimum of 3 months.
29. We also expect that BT would only offer equivalent services on a 'reasonable endeavours' basis, given the circumstances, i.e. their current contractual obligations would become targets. There will also be costs involved in establishing a new contract as BT would need to negotiate new contracts with their supply chain and take any proposed arrangements through BT's formal governance processes. BT would anticipate recovering these additional costs in the new contract. At this stage they cannot be specific on pricing as they would need to enter negotiations with our supply chain should DS wish to proceed.
30. Unfortunately time is pressing and BT require a formal indication from DS that a contingency arrangement is required in the next two days. This is necessary as they need to serve notice on some services immediately to avoid costs after the previous contract end point of 30 September, for instance the costs of the BT network circuits. They would need to notify their subcontractors to not release staff or cease their supply chain arrangements after 30 September in order to maintain service continuity. A formal indication that we need a contingency arrangement would need to confirm that DS would fund any costs incurred by BT post 30 September should we fail to reach agreement on the terms of a contingency agreement.
31. Due to the issues above, I cannot at this point say what the new contract will cost. Had we decided in June to delay the BT exit by 3 months, we would have occurred just of £2m extra costs. Given the caveats in BT's initial response, I expect the costs of a new 3 month contract to be higher, possibly significantly so.

## Relationship with BJSS [REDACTED]

32. Last Wednesday I had an urgent meeting with the owner of BJSS and their head of client services to discuss what they are doing to recover the situation and repair our confidence. This was a robust meeting and they left in no doubt as to the gravity of the situation. We talked about what would happen if we were left without a viable service. There is nothing they themselves can do to fix that problem; they are working as hard as they can on the functionality and there are no gaps in their resources. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I fully recognise that Ministers will be very disappointed to receive this advice. Our previous advice was that it was correct to confirm the exit of the BT contract in June, and my Programme Director discussed this in person with Mr Swinney as he had expressed his reservations at the time. The decision to recommend we exit was made on all the data that was available, taking into account clear criteria that our Transformation Board considered met. [REDACTED]

36. However, I would reiterate that I consider the presenting difficulties are about delivery timing rather than the emergence of significant flaws with the content or fundamental viability of what is to be delivered. Whilst this is regrettable, the information that we presently hold is that any disruption to the PVG Scheme will be of only a very short duration. This will of course occasion risk of significant criticism of both the Scottish Government and Disclosure Scotland in political, media and stakeholder circles. [REDACTED]

[REDACTED] We will also focus on drawing comprehensive ministerial briefings and lines in collaboration with SG communications.

## Conclusion

37. Ministers should note that the Disclosure Scotland replacement IT system will be insufficiently ready by 27 August 2018 to deliver planned services. This has arisen in part due to the complex and innovative nature of the programme [REDACTED]

[REDACTED] These issues do not concern content or capability of the new system but rather the speed of its delivery.

38. In order to be confident we can continue to provide a safe service to the public, I believe that the only option is to retain BT as the IT provider for an additional time. We will continue to work to develop and implement the necessary functionality to ensure that we are off the BT platform as quickly as we safely can. We are continuing to model options and will give dynamic advice. Ministers may be assured that officials are making every possible effort to secure the necessary clarity from the



supplier and are actively planning for every possibility in these difficult circumstances.

39. I would like to offer an urgent meeting as I appreciate Ministers will be concerned to arrive at a viable way forward at the earliest opportunity.

**Lorna Gibbs**  
Chief Executive: Disclosure Scotland  
Ext [REDACTED]

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Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
DG, Education, Communities and Justice Director, Children and Families Director Digital [REDACTED] Kate Higgins Colin McAllister Disclosure Scotland SLT [REDACTED]					