House of Commons
Work and Pensions Committee

Management and Administration of Contracted Employment Programmes

Fourth Report of Session 2009–10

Report, together with formal minutes, oral and written evidence

Ordered by the House of Commons
to be printed 3 March 2010
The Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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Committee staff

The current staff of the Committee are James Rhys (Clerk), Emma Graham (Second Clerk), Hanna Haas (Committee Specialist), Laura Humble (Committee Media Adviser), Lisa Wrobel (Senior Committee Assistant), Hannah Beattie (Committee Assistant) and Sharon Silcox (Committee Support Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5833; the Committee’s email address is workpencom@parliament.uk
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Summary

We examined the Department’s Commissioning Strategy and the Flexible New Deal in 2009. This report looks at contracted employment programmes as a whole, and follows-up issues which came to light in the last report. It particularly focuses on the prevention of fraud, the treatment of subcontractors, and ensuring fair treatment of customers, including vulnerable groups.

We note that levels of detected fraud in contracted employment programmes are low, and that we were told there is little evidence that there is a problem with undetected fraud. However we feel that there is no room for complacency; the frauds uncovered to date have highlighted the extent of the risk that could be exploited because of weaknesses in the system. The Department must ensure that processes for the detection of fraud are rigorous and robust. In addition, the financial penalties for providers who have fraud in their organization are not severe enough. We also recommend that reports by the Risk Assurance Division must be published where wrongdoing is found. We note that the Department is moving to a system combining greater use of “off-benefit” checks and random interrogation of claims with stringent deterrents and this may be an effective and cheaper alternative.

The ERSA Customer charter is currently voluntary for providers and unenforceable. We call for customer rights to be given a much higher status, and for a universal, monitored, and enforceable customer charter to be introduced. We also call for the Department to carry out a “Customer Survey” of customers of contracted employment programmes to enable standards of service to be compared between providers and with Jobcentre Plus. Advisers also need to talk to customers on contracted provision about their experiences and ensure these are fed back to providers and the Department.

The report also looks at the quality of provision offered to vulnerable groups, particularly those with disabilities. It notes that there is evidence of “parking” in Pathways to Work, where providers offer a limited service to those who they feel are unlikely to move into work. The Committee welcomes the Department’s plan to pilot an “accelerator” model of payment, where providers receive increasingly large payments per customer as they move more people into work. The report also notes that the Work Capability Assessment is leading to more people with health problems on Jobseekers Allowance, and to a higher proportion of the severely disabled on Employment and Support Allowance. This will lead to providers needing to work with customers with more severe barriers than they had anticipated. We recommend that the evaluation of Flexible New Deal should include an assessment of the impact on different impairment groups, and that the new Work Choice programme for the severely disabled should include monitoring by impairment.

DWP sees itself as having a “market stewardship” role. We conclude that there is no evidence of this happening in practice. The report examines several examples of potentially unfair treatment of sub-contractors. Whilst we do not know how widespread this problem is, neither does the Department and we call on them to clarify what constitutes fair treatment of subcontractors and ensure that prime contractors meet these standards. Despite its rhetoric, the Department has shown no willingness to get involved with even
the most serious cases.

The Report is sceptical about the new Merlin accreditation standard. We are very concerned that in cases where the prime contractor is in breach of contract with the Department the Department says it would not get involved. We also note that decisions made by Merlin will have implications for the viability of individual subcontractors and for service delivery, and conclude that it makes sense for the Department to make these decisions itself, allowing it to ensure the market develops in a way which is stable, robust and meets the needs of customers.
1 Introduction

1. Over recent years the Department has seen an increasing number of its employment programmes delivered through contracts with the private and third sectors. The Department published a revised Commissioning Strategy for employment programmes on 28 February 2008; the Flexible New Deal was the first programme to be commissioned under the new strategy. The strategy aims to create a strong market structure in which 80% of the Department’s business is conducted with a “stable core of reliable providers” led by prime contractors at regional and subregional level. The Department expects smaller providers to remain important but they will be subcontracted by a consistent base of top tier prime contractors who must adhere to a Code of Conduct (which outlines best practice in the treatment of sub-contractors throughout the Department’s supply chain). Performance will be measured on the basis of both short and sustained job outcomes, with an initial measure of sustainability of six months but looking to build in incentives for up to 18 months. Provision will be externally assessed using existing arrangements with Ofsted in England and Estyn in Wales and (from January 2010) Her Majesty’s Inspector of Education will inspect providers in Scotland. Contracts will be longer and larger than they have been in the past “to enable long term planning and investment”.

2. The Committee carried out an inquiry into DWP’s Commissioning Strategy and the Flexible New Deal in early 2009. The aim of this inquiry was not to repeat that inquiry; instead it aimed to look at issues that had come to light, or changed since the 2009 report. Primarily these were the prevention of fraud, the treatment of subcontractors, and ensuring fair treatment of customers, including vulnerable groups. Our previous inquiry endorsed the “black box” approach, under which the Department does not prescribe how providers help customers move into work, but rewards them when they do. However the “black box” applies only to how customers are helped by providers; it never applied to auditing or to the treatment of subcontractors. The Department has also specified in the Commissioning Strategy that its assurance processes would ensure that the hardest to help were offered a good service by providers.

3. The terms of reference of this inquiry were wider than our previous one, in that they included all contracted employment programmes, including Employment Zones, Pathways to Work, the New Deal for Disabled People, the New Deal for Young People, Prime Contractor New Deal, and the Work Choice Programme (which is still out to tender) as well as Flexible New Deal. These programmes have many differences in the way they are commissioned, paid for, and delivered. Some of our conclusions are generic, and others apply to specific programmes.

4. The Committee invited witnesses to submit written evidence on 13 July 2009. We received memoranda from 15 organisations: the Papworth Trust, the Wise Group, RNIB,

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1 DWP, Commissioning Strategy, February 2008, p 10
2 DWP, Commissioning Strategy, February 2008 Annex 1, p 32
5 DWP, Commissioning Strategy, February 2008, p 22

5. On 30 November 2009, the Committee held its first evidence session with Huw Davies, the British Association for Supported Employment; Rob Murdoch, Chair, the Employment Related Service Association (ERSA) and Executive Director, A4e; and Matthew Lester, Vice Chair, ERSA and Director of Operations, the Papworth Trust. The second evidence session with the Minister for Welfare Reform and Employment, Rt Hon Jim Knight MP took place on 16 December 2009.

6. As part of the inquiry, the Committee also undertook a visit to Glasgow. A report of this visit is contained in the Annex to this report. We are very grateful to Royal Strathclyde Blindcraft Industries, Glasgow Works, Partick Jobcentre and DWP for facilitating our visit, and to all those who took time to meet us.

7. We would also like to thank Dan Finn, Professor of Social Inclusion at the University of Portsmouth, for assisting us as Specialist Advisor during the inquiry. We very much appreciate the contribution he made to our work.

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6 The Committee formally noted that he had declared interests as Associate Director (Research) with the Centre for Economic and Social Inclusion—at its meeting on Wednesday 8 July. Formal minutes of the Committee are available at http://www.parliament.uk/parliamentary_committees/work_and_pensions_committee/wapfmhomepage.cfm
2 Prevention of Fraud

Scale of Fraud

8. This inquiry was triggered, in part, by press reports of fraud in contracted employment programmes. However, submissions we received stressed that, while any fraud was unacceptable, current levels of fraud were low. The Employment Related Services Association (ERSA) cautioned against over-reaction to media reports, because it:

Would not see the cases recently reported in the press as grounds for judging that the current safeguards have failed. However, fraud on any level is intolerable: these cases are a salient reminder of why safeguards are necessary and serve as a prompt to learn lessons and build these into continuous improvement.7

9. The Association of Learning Providers also told us that the level of fraud was low. It pointed out that there was little evidence that there was a significant level of undetected fraud:

Looking at the messages posted by disaffected employees on websites such as Indus Delta does often give the impression that many are the result of individual grievances and prejudices rather than evidence of any material or significant institutional wrongdoing. It must also be borne in mind that despite the sector being the subject of repeated, extensive (and often duplicatory) audits by a variety of bodies, the instances of fraud are still relatively speaking extremely low.8

10. In written evidence the Department quantified the level of detected fraud. It said that between 1st April 2006 and 31st August 2009 it had launched 78 investigations; 72 investigations had been completed and:

- in 14 cases the investigation discovered evidence that documentation included, or might include deliberate false representations, typically in relation to client signatures or details of the service provided;9 and

- in another 16 cases, irregularities were considered to be issues of contract compliance (e.g. invalid documentation to support claim or full conditions not met to warrant claim), with no clear intention of making an unwarranted gain or causing a loss to DWP.10

11. Five cases had been referred to the police (in other cases the amounts involved were too small or the culprit could not be identified). The Department said that in none of the cases was the provider engaged in systematic fraud. Instead it found “a combination of illicit

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7 Ev 81
8 Ev 75
9 By 20 November 2009 this had increased to 16 Ev 97
10 Ev 89; in oral evidence in December we were updated with the information that 74 cases had been concluded and 16 found evidence of deliberate false representation.
behaviour by individuals and inadequate management oversight and controls on the part of providers.11

12. The Department supplied us with a table showing which programmes had been affected by “deliberate false representations”:12

<table>
<thead>
<tr>
<th>Programme</th>
<th>Count</th>
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<tr>
<td>New Deal overall comprising</td>
<td>9</td>
</tr>
<tr>
<td>New Deal for Young People</td>
<td>3</td>
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<tr>
<td>New Deal 25 plus 3</td>
<td>3</td>
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<tr>
<td>New Deal for Disabled People</td>
<td>1</td>
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<tr>
<td>New Deal Prime Contractor</td>
<td>113</td>
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<td>Progress to Work</td>
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<td>European Social Fund</td>
<td>2</td>
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<tr>
<td>Employment Zones</td>
<td>1</td>
</tr>
<tr>
<td>Ethnic Minority Outreach</td>
<td>1</td>
</tr>
<tr>
<td>Action Teams</td>
<td>1</td>
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</tbody>
</table>

13. By contrast, ERSA highlighted that as well as cases of fraud, there were also cases of underpayment, where it had not been possible for providers to prove job outcomes to the Department’s satisfaction. It told us that the existing anti-fraud measures were making it hard for providers to claim for genuine outcomes, and any reaction to recent frauds needed to be proportionate. It contrasted two recent situations:

- A once-only “off-benefit check”, to pay Pathways providers for hundreds of ‘backlog’ job outcomes they had achieved but could not prove through lack of paper evidence, resulted in DWP paying out many hundreds of thousands of pounds to providers. This occurred ‘under the radar’ and there are no plans to repeat it;
- The recently reported fraudulent claims (where the sum repaid by providers was considerably less than the sum paid by DWP for previously unclaimable Pathways outcomes) provided no evidence of systematic fraud, though the story attracted sustained press attention and triggered various policy responses.14

11 Ev 89
12 Ev 97
13 The abuse was across a range of New Deal programmes being delivered by a single New Deal Prime Contractor and is separate from the other eight incidents.
14 Ev 79
14. They went on to caution against an over-reaction:

    [...] we would urge Parliament and DWP to guard against responding to these cases with measures that, in practice, have little impact in further eliminating fraud but create significant extra cost and other downsides for effective delivery.\(^\text{15}\)

15. Most of the submissions we received were from providers or industry bodies, as well as the Department, and all said levels of fraud are low. We have not conducted a forensic inquiry into contracted employment programmes and are unable to verify these claims.

16. Levels of detected fraud in contracted employment programmes are low. We were also told that there is little evidence that there is a problem with undetected fraud. However the frauds uncovered to date have highlighted the extent of the risk that weaknesses in the system could be exploited. The Department must ensure that processes for the detection of fraud are rigorous and robust.

**Identification of fraud**

17. In oral evidence the Department told us that of the 78 cases they had investigated 66 had come to light though the Department’s own processes\(^\text{16}\) and 12 had come from external sources (including “whistle blowing” by provider staff or former provider staff)\(^\text{17}\). Only one had been brought to the Department’s attention by the provider.\(^\text{18}\) However the Department then told us that 33 cases were recorded as coming to light during the financial appraisal and contract management process, and that this could include the provider alerting the contract manager. It also noted that of the 74 cases which had been concluded only 16 were actually found to be cases of possible or actual document falsification. The Department did not break down how these 16 were identified.

18. The Department was not able to tell us how many fraud cases to date had come to light as a result of the provider notifying the Department. Until now it seems that the majority have been identified either by whistleblowers or through the Department’s own processes. The Department needs to issue clear guidance to providers about what problems can be dealt with internally and when it must be informed. The Department must also keep records of when providers notify it of suspected fraud.

19. It is a matter of concern to us that the Department is moving towards a system based on providers detecting fraud themselves and notifying the Department. On past performance this would seem highly optimistic. If the Department is to continue down this route it must work with providers to develop a system which is rigorous and transparent.

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\(^{15}\) Ev 81

\(^{16}\) Q62

\(^{17}\) Q63

\(^{18}\) Q63
DWP Standards

20. In the Department’s written submission it did not identify any change to its standards or procedures that had been made specifically in response to frauds which had been uncovered. However, it said it had reviewed its strategy over the past year and was in the process of applying four key principles to all contracted out employment programmes. These are:

- There must be a “whistleblowers charter” in place, enabling supplier staff to report inappropriate behaviour by colleagues in respect of performance claims.
- Performance management systems within the organisation must not generate perverse incentives among individual employees to falsely claim performance achievement.
- There must be segregation of duties within the supplier’s operations between those achieving performance and those reporting it to DWP: between claim and validation.
- An internal audit regime must be in place which provides for periodic checks of the performance reporting regime.\(^\text{19}\)

21. In oral evidence the Department went into more detail about these “key principles”. They told us that prime contractors must put these measures in contracts with subcontractors.\(^\text{20}\) They also said that whistleblowers were free to contact the Department direct and have done so in the past.\(^\text{21}\)

22. In written evidence A4e said that it had abolished individual bonuses and moved to a system of group bonuses because it has “found that individual performance incentives, whilst effective in delivering short-term results, may have been a driver for individual malpractice”.\(^\text{22}\) However, the Department told us that the ban on “perverse incentives” was not a ban on individual bonuses, but that its Provider Assurance Team would look at any bonus system.\(^\text{23}\)

23. In oral evidence, the Minister, told us that most of the changes were planned before the frauds were identified:

There were some changes that were coming through anyway. In terms of the new assurance division, that was set up last year. It came into effect in October, I think. All the work necessary to get that established was underway before any of the media stories that happened over the summer.\(^\text{24}\)

\(^{19}\) Ev 86
\(^{20}\) Q87
\(^{21}\) Qq 89, 63
\(^{22}\) Ev 60
\(^{23}\) Ev 96
\(^{24}\) Q60
24. We welcome the Department’s four key principles for employment programmes. They provide a good minimum standard for providers to work from. However we are concerned that there is not an outright ban on individual bonuses linked to job outcomes. These have played a role in at least some of the past frauds, and could do so again in future.

**Job outcome verification**

**Rules**

25. In the past providers were paid for providing a specified service for customers. The Department is in the process of moving to a system whereby, rather than being paid a flat fee, providers are paid for job outcomes. Providers have to provide paperwork to verify that the customer has been in work for the required time before they receive payment. For example, New Deal for Disabled People require two forms to be completed:

(a) E1 form which is completed by the client, accompanied by either a contract of employment which must state the job is ‘expected to last at least 13 weeks’ or wage slips covering the 13 week period.

(b) E2 form which is completed by an employer, stating the job is “expected to last for at least 13 weeks” with relevant details of the post.

26. Most programmes use a similar system, and require similar evidence, although some require evidence that the job “has lasted 13 weeks” rather than “is expected to last”. Most programmes require the job to be at least 16 hours a week, although Pathways only requires it to be eight. ERSA drew attention to other rules which make it difficult for their members to prove job outcomes:

[...] the employer representative who signed the first document may not be available to sign the second one and the signatures must match; some businesses, such as a fish and chip shop, may not always have print material such as headed note paper to hand;

A six week tracking period (within which providers can claim job outcomes once a customer leaves provision) being tight when recruitment processes take time, e.g. in the public sector.25

27. Some larger companies had realised how dependent providers were on having job outcome forms completed and were now charging for them.26 The Shaw Trust said there were “numerous times” when it had not been able to claim for legitimate job outcomes, and that it had had claims rejected because of the colour of the ink used.27 Suppliers felt strongly that this paperwork added nothing. The Shaw Trust said:

25 Ev 82
26 Ev 47
27 Ev 47
the extra workload and inefficiency caused by this bureaucratic process does not necessarily provide any additional safeguard against determined fraudulent claims. It certainly does not provide any additional security to the alternative of using Jobcentre Plus’s own records. If anything, paper-based systems are less secure and therefore, more vulnerable to fraudulent practice.28

**Burden on employers**

28. The Shaw Trust complained that small businesses found the system of job verification burdensome.29 Reed in Partnership questioned whether more onerous checks might lead to a reluctance by employers to hire people from employment programmes.30

29. However in oral evidence, Mr Davies from BASE told us that for employers taking on supported employment customers the job outcome forms made up only a small amount of the total paperwork:

> I certainly hear feedback from employers about the level of paperwork that is involved around placing somebody into sustainable jobs being quite heavy. Interestingly most of that is probably around health and safety and risk assessment and some of the individual development planning but I have never come across an employer who is not willing to complete the paperwork around the job outcome which is the least of the paperwork in a way.31

He added that “when we think about customers, we need to be thinking about employers as customers in these processes as well”.32

**Off-benefit checks**

30. The Department has committed to moving to off-benefit checks (using computers to check that the person is no longer claiming benefits) to verify job outcomes. This approach has been introduced for Pathways to Work33 and is the method for evidencing Flexible New Deal (FND) outcomes. The Department confirmed in oral evidence that there would be a three stage check:

- an off-benefit check;
- a check of 10% of the provider’s documentation of job-outcomes;
- Spot checks with the customer, asking them to confirm that they are in work.34

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28 Ev 47
29 Ev 47
30 Ev 72
31 Q8
32 Q8
33 The off benefit check for Pathways mentioned above was a “one off” in that it was used in cases where providers did not have paperwork DWP requires to verify a job outcome. The new system still requires providers to collect the paperwork.
34 Mr Cave Q94
31. ERSA welcomed this but said that it did not go far enough, particularly as providers would still be required to collect all the paperwork. They called for:

   a clear policy of using ‘off-benefit’ checks wherever they can technically prove job outcomes; continued joint work by DWP and ERSA to review the value of the other types of evidence still required to sit alongside ‘off benefit’ checks; and further review of the evidence ground rules and processes for those scenarios where ‘off-benefit’ checks will not work technically.35

32. Several other submissions suggested that greater use should be made of off-benefit checks.36 However in 2004 the Department surveyed people who had stopped claiming benefits to identify their reasons for doing so.37 The survey showed that only 50% of Jobseekers Allowance claimants who stopped claiming did so because they had started a job of over 16 hours a week (the definition used for outcome payments on FND). Of the other 50%, 10% had had their benefit stopped, 8% moved to a different benefit, 6% started training, 6% had a problem with their claim, and 10% were “other” or “don’t know”. Two per cent had started work for less than 16 hours a week. In oral evidence it was suggested that the figures might be different for those who have been on JSA for at least 12 months (potential FND customers) but there was no evidence to support this.38 In oral evidence the Department said that because they did not yet have any FND outcomes they did not know how accurate off-benefit checks were for this group.39

33. We have heard that the current paper based system for verifying job outcomes is bureaucratic and unpopular. We are worried by reports that some employers are charging providers for the paperwork they have to complete. The Department must ensure that the burden of paperwork does not discourage employers from hiring people on employment programmes.

34. There is not yet any clear evidence as to how effective off-benefit checks are for verifying that Flexible New Deal customers are in work. Were they to prove reasonably accurate, we could see the potential benefits to the Department, providers and employers, of relying more on off-benefit checks combined with random checks, as the Department proposes. However, we believe any move to a less bureaucratic system, with savings for both providers and the Department, should be balanced by severe penalties for any provider which has fraud taking place in its organization, systematic or otherwise. A system of deterrent could be as effective, and cheaper, than the current system of paper-based verification.

Service fee

35. The payment structure for FND includes a service fee and outcome fees (when the customer moves into work, or remains in work for the required time). Originally the

35 Ev 82
36 Ev 59, 93
38 Mr Murdoch Q14
39 Q95
service fee was 20% of the total fee, but it has temporarily been increased to 40% to help providers cope with the economic downturn. As we have seen, a lot of effort goes into ensuring that outcome fees are paid correctly. However, we heard that there is much less checking of what the service fee is spent on, and whether that service is delivered.

36. The Department has largely adopted a “black box” approach for FND. This means that rather than prescribing what help providers offer customers, it allows the provider to design their own programmes (the “black box”), then pays them by results. However, there are still a number of mandatory elements to the programme which providers have to supply. The “Invitation to Tender” for phase 2 of FND specifies that providers must:

- conduct an initial in-depth assessment of the customer’s barriers and needs;
- agree and regularly review a work-focused action plan, which is tailored to the individual;
- ensure that within the core twelve months of Flexible New Deal, all customers undertake a minimum of four weeks of continuous full-time employment or continuous full-time work-related activity;
- pay the customers’ travel costs, and, where applicable, their childcare costs;
- offer labour market advice and support. For example:
  - providing better off (in work) calculations;
  - promoting in work benefits; and
  - assisting with tax credit applications.40

The document goes on to set out in detail what each of these elements must comprise: there is a two-page description of the four weeks of full-time activity.41 The document then goes on to explain the purpose of the service fee:

The service fee is intended to provide bidders with a guaranteed monthly payment by way of a contribution towards the delivery of the contract service. […] Bidders should note that the service fee is intended to cover provision of the service across the life of the contract. Bidders will therefore need to be aware of the relevant clauses within the (draft) Terms and Conditions regarding early termination of the contract.42

37. ERSA told us that it thought the service fee was to enable providers to cover up-front costs. Mr Murdoch, Chair, ERSA and Executive Director, A4e, speaking on behalf of ERSA told us:

In relation to the 20 per cent level, in many ways for example Flexible New Deal is a commitment of anticipation of volumes from the Department for Work and

40 DWP Flexible New Deal—Phase 2 Invitation to Tender Provision Specifications and Supporting Information 2009
41 DWP Flexible New Deal—Phase 2 Invitation to Tender Provision Specifications and Supporting Information 2009 p 10–2
42 DWP Flexible New Deal—Phase 2 Invitation to Tender Provision Specifications and Supporting Information 2009 p 32–5
Pensions so it can allow the provider to make sure that they invest in these services and anticipate those volumes coming through that contract.43

38. Mr Lester, Vice Chair, ERSA and Director of Operations, the Papworth Trust, told us that there were no checks on how the service fee was spent “because the concept of Flexible New Deal is a black box approach [...] within reason”.44

39. In oral evidence, Mr Cave, Delivery Director, Employment Group, DWP took an almost identical line. He told us that the service fee is for “the cost of establishing infrastructure and the service provision which is going to be provided to those customers. 45” When pressed he said that this involved setting up the compliance processes required by the contract46 and that the Department “is very deliberately moving away from a prescriptive description of what each provider should do in terms of processes and activities with the customers towards a focus more on outcomes”.47

40. The Minister told us that the service fee should be seen, and was being monitored as part of the entirety of the contract:

The reward system, which includes a proportion of service fee and a proportion of payment by results, is the entirety of the reward fee, and the ratios of service fee to the other elements is to some extent about risk more than it is about which elements of the contract are covered by the service fee and which are covered by payment by results. In my own mind, that is not how it works. It is about where you park the risk.48

41. The Department needs to be clear about the purpose of the service fee. FND has several mandatory parts, which include an initial assessment, a work focused action plan, and four weeks full-time work related activity. If the service fee is a fee for services rendered, then the Department needs to check that these activities take place, and demand a refund of the service fee if they do not. If the service fee is actually an up-front payment for set-up costs it should be renamed to avoid confusion. Whichever is the case, the Department needs to ensure that there is monitoring of the mandatory parts of FND, and that providers are clear that the Department expects them to be delivered.

Punishments and deterrents

42. The providers involved in fraud uncovered by the Department paid back any overpayments resulting from that fraud, but did not suffer additional financial penalties. Companies who are under investigation by the Department are also still able to tender for contracts.

43 Q19
44 Q20
45 Q66
46 Q68
47 Q70
48 Q73
43. The Shaw Trust said that:

We also believe that the greatest disincentive to fraudulent activity would be for DWP to impose financial penalties upon providers who submit such claims, and to remove their contracts.49

44. The Department said in written evidence that contracts also contain a clause entitling the Department to terminate the contract in the event of any act of fraud committed by the provider.50 However this has not happened in any of the cases uncovered to date. The Minister told us that he thought that the penalties providers had suffered as a result of the frauds uncovered to date were harsh enough because:

We have no evidence of systematic fraud, systematic abuse of the system by any of our contractors. If any such evidence were to be found, then I would have an expectation of very robust action from us and want to ensure that that would happen against those contractors in a punitive way.51

45. He went on to say that the frauds had been committed by “one or two rogue elements” within providers.52 He admitted that one provider had had problems in five different offices but said that with some prime contractors employing a thousand people “there would be instances [of fraud]”.53 However in written evidence the Department said that it had found “a combination of illicit behaviour by individuals and inadequate management oversight and controls on the part of providers.”54

46. Anyone involved in fraud risks criminal sanction. However, at the moment companies where fraud is found which is not systematic face no penalty beyond repayment. This is not acceptable. Where the Department has identified “inadequate management oversight and controls on the part of providers” allowing fraud to take place, providers should be penalised. The Department can terminate contracts in the most serious cases, but in all cases there must be financial penalties beyond the repayment of fraudulently claimed outcome fees.

47. The Department is moving to a system where providers are taking more responsibility for detecting fraud through their own internal procedures, while the Department carries out less auditing itself. The Department should combine this model with stringent financial penalties as one way to ensure providers are focused on preventing fraud.

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49 Ev 47
50 Ev 88
51 Q80
52 Q80
53 Q82
54 Ev 89
**Risk Assurance Division reports**

48. The Department’s own Risk Assurance Division (RAD) investigates fraud allegations. As discussed above, those allegations can come from DWP sources or from whistleblowers. The reports of their investigations are not published. The Department told us that:

Risk Assurance Division investigations staff are professionally qualified investigators who assess the quality of evidence in the allegation and investigate where there are sufficient grounds to proceed. This typically involves site visits, interviewing people (sometimes under caution) and examining evidence.

Minor irregularities and findings of non-compliance are reported back to contract management and addressed internally. Where investigators suspect reasonable grounds that a serious criminal offence has been committed, Risk Assurance Division will refer the matter to the police, where there is sufficient evidence.55

49. A4e were asked in oral evidence about the RAD reports that had been written after wrongdoing was found at a small number of their offices. Mr Murdoch said “I would urge that those reports are fully published and transparent to the public to see what happened in any of those instances. I would welcome that”.56

50. In oral evidence the Minister told us that RAD reports were not published for three main reasons:

The reports may contain personal data and witness statements that we do not think it is appropriate to publish. Clearly we could redact them, […] but then also you have issues around premature exposure potentially prejudicing or damaging DWP or police investigations. If the allegations are found to be unfounded, you then have the risk of litigation against the department from the provider who is found to have no problem and no case to answer.57

51. However Mr Cave did say that the Department was looking for ways to ensure that the lessons learned from RAD reports were placed in the public domain.58

52. Many providers have contracts for other Government Departments, particularly around learning and skills. In Glasgow we heard that other sources of funding there included the European Social Fund, the Inspire Scotland Fund (made up of philanthropists and the Scottish Government) and the City Strategy. The Learning and Skills Council and Local Authorities also have contracts with some providers. Many of these organizations carry out their own inspections and audits. The Minister told us of the circumstances under which the Department would share the results of a RAD investigation:

If this is something where we are sharing the provision with another provider and another government department, then obviously we would share the information

55 Ev 88
56 Q7
57 Q98
58 Q101
and disclose that. Otherwise, we do not generally pass around the work of the RAD to other government departments willy-nilly. 59

53. He went on to say that there had not yet been a case of a “serious fraud” but that if there were they would want that information to be in the public domain.

54. We welcome the Department’s commitment to publish the lessons learned from Risk Assurance Division (RAD) reports but we believe this does not go far enough. We also welcome the fact that A4e were in favour of RAD reports on the company being published. We agree with the Minister that in cases where there is no case to answer RAD reports should not be published. However where wrong doing is found they should be published, with redactions where necessary. If this would prejudice an on-going investigation the report should be published after such investigations are finished. We believe that seeing the detail of the report will provide valuable lessons for other providers, and that publication will also provide another form of deterrent.

55. We were surprised that the Department does not routinely share the results of investigations with other Government departments, non-departmental public bodies or local authorities. It should do so, and also ensure it is notified of investigations by other bodies. While the Department has not identified any “systematic fraud” it has identified cases of “inadequate management oversight and controls”, something which must be shared with other bodies who have contracts with those companies.
3 Customer Service

56. Much of the evidence we received during this inquiry stressed the importance of good customer service. Many submissions stressed that delivering good customer service made good business sense for providers, and that monitoring customer feedback would help them improve their service. We also received a lot of evidence about the role the Department should play in helping providers to improve their customer service.

Customer Charter

57. In our inquiry into Contract Commissioning One Parent Families/Gingerbread told us that:

All claimants who are referred to a Flexible New Deal provider should be provided a statement of what they can expect from the provision, the way in which the provider is being funded to deliver the service (ie that the provider receives payment for helping them to access sustained employment), and details of how they can complain to this ombudsman if they feel that the service does not meet their expectations.60

58. In that inquiry we recommended that:

DWP introduces a customer charter which clearly outlines what is expected of customers and what they can expect in return.61

59. The Department replied that they were drawing up a DWP wide Customer Charter,62 which they have now completed. Evidence to this inquiry was mixed. The Association of Learning Providers said that

There is nothing inherently wrong with the [DWP] Customer Charter, which sets out some clear basic rights and responsibilities. It is clear, simple and easy to understand, and the principles it espouses are applicable to DWP, JCP and its contractor base. Any customer will be able to clearly understand the basics about what they can expect from DWP (and its associates) and also what is expected of them. However posters on a wall do not of themselves facilitate positive behaviours..63

60. Reed in Partnership welcomed the DWP Customer Charter, noting that it had had one for 5 years but cautioned that:

the DWP Customer Charter should balance the fact that some customers, especially those on mandatory programmes, do not want to take part in activities. We therefore have to ensure that the Customer Charter and any associated complaints procedure

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63 Ev 77
does not allow people to 'play' the system in terms of delaying their active engagement in training programmes or the Mandatory Work Related Activity element of Flexible New Deal.  

**Knowing your entitlement**

61. Several submissions said customers needed information on what they could expect from providers when they started an employment programme. RNIB said that customers would need guidance on what a quality service looked like, so they know when to complain or exercise any right to change providers. This would particularly apply to those who are disabled or furthest from the labour market, who might be offered a limited service by providers who thought they were unlikely to find work. The National Autistic Society thought that more needed to be done to make people aware of the different types of support available.

62. PCS believed this could be done through the customer charter:

> [...] we believe the customer charter proposed by DWP lacks information about individual entitlements to services and the document is too vague to offer clients a sufficient understanding of their rights. The charter should clearly set out the minimum service standards clients are entitled to receive.

63. However in oral evidence BASE told us that this model would not work for supported employment:

> [...] supported employment is very, very personalised [...]. You cannot really have a list of everything that you might be entitled to otherwise we get into this ticking off: 'I have had that. No, I have not had that. When is that coming?' The individual development plan or action plan is much more relevant.

64. Mr Lester, Vice Chair, ERSA and Director of Operations, The Papworth Trust, speaking on behalf of the Papworth Trust said that providers were already doing a lot to inform customers about what to expect:

> [...] pretty much all of us do what we can to communicate with customers when they come to the door about what they might expect. It comes in different guises so sometimes providers produce a leaflet, some produce a brochure, some ask us to do it but we try to make it as clear as possible to people what they might expect and what they need to do.

65. However on our visit to Glasgow we met with customers from several different providers. A number were being offered very limited help, only “job search” and/or only
group work with no individual help. Most had been given no guidance from Jobcentre Plus about what they might expect from the provider before they started. Many were surprised to hear of the level and range of help and training that customers with other providers were getting. They had not been aware that such things were on offer, and so had not been aware that they were getting a poor service.

66. We received strong evidence that customers need more information about what help and support they can expect from providers. We recognise that there could be a tension between this and the “black box” approach. However, in Glasgow we met clients who were receiving very little help, and who had no idea that personalised help and training were options. Jobcentre Plus staff should have a role in monitoring provision, and talking to customers about what help and training they have been offered. The customer could then challenge the provider if they felt they were missing out.

**ERSA Customer Charter**

67. The Department worked with ERSA to develop a Customer Charter for contracted employment programmes which will sit underneath the wider DWP Customer Charter. The Charter was published after the deadline for the submission of written evidence to this inquiry, but before we took oral evidence.

68. ERSA told the Committee that it had worked “very closely” with the Department to draft the Charter; ERSA members had undertaken focus group work with their customers and this was fed into the Charter. BASE told us that it had not been involved in drafting the charter but that it “would support all those sentiments” expressed in it.

69. ERSA went on to explain that the Charter was voluntary, but was open to all providers, whether they were members of ERSA or not. Mr Murdoch, Chair, ERSA and Executive Director, A4e; speaking on behalf of ERSA went on to say:

> It is not enforceable at this stage in relation to a framework such as Ofsted. The next step is for us working with DWP and Jobcentre Plus providers to look at that kite mark and how we follow up to make sure that we can be certain of those minimum standards.

70. In oral evidence, the Minister said that the Department would not have asked the industry to draw up a customer charter from scratch, but that ERSA had based their charter on the Department’s one. When he was asked about it being unenforceable he said:

> It is a helpful standard that we are putting down, that there is an encouragement on first providers to sign up to it. I think there is an encouragement from the industry to want to be able to use it alongside some of the other things that we do.

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70 Mr Murdoch Q33
71 Mr Murdoch Q34
72 Q35
73 Q37
74 Q106
He added that Merlin bespoke accreditation based standard and the Code of Conduct also had a role in driving up standards for customers (these deal primarily with the relations between prime contractors and sub contractors and are discussed in chapter 5).

71. **The ERSA Charter is currently voluntary and unenforceable. Customer rights need a much higher status than this. It is also important that customer rights are enshrined right from the start of contracts. We regret the fact that the Department seems to be adding in customer rights as an afterthought. We call on the Department to introduce a compulsory, monitored and enforceable Customer Charter as soon as possible. This should be based on the ERSA charter and contain details of how customers can complain.**

**Poor service and complaints**

72. During our inquiry we heard several accounts of the poor service that some customers are receiving from providers. Problems that customers can experience were highlighted in a Manchester Evening News article from March 2008 which reported:

> Job hunters say up to 200 of them are crammed into [A4e’s] premises in Minshull Street, Manchester, where they have two computers, and no telephone access, for job searching and just one toilet each for men and women. They have presented photo evidence claiming to show that many have to stand through training sessions due to lack of classroom space and that there are poor standards of cleanliness.

> […] Many said they were scared to speak out for fear of having their benefits cut but more than 60 people signed a petition documenting problems including overcrowding, blocked fire exits, poor ventilation and "filthy" toilets. It was shown to A4e and DWP representatives.

73. The Shaw Trust drew attention to providers claiming “zero hour contracts” (where a contract of employment does not guarantee a minimum number of hours per week) as job outcomes. It said that:

> We acknowledge that there may be some circumstances—particularly within certain industries—where such contracts are preferable to a client not being offered a job at all. However, we strongly believe that this is unacceptable as a standard outcome under normal circumstances, and we regret to see this practice being used widely by some providers.\(^{75}\)

74. The “Benefit Busters” documentary also drew attention to this issue.\(^{76}\) Customers in the programme were dissatisfied with A4e staff offering them short-term and zero hour contracts, often through agencies, rather than focusing on helping them to find sustainable employment. However, in oral evidence Mr Mudoch told us:

> I do not think they [zero hour contracts] have a place within these contracts. I believe that temporary work sometimes is an important stepping stone in relation to

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\(^{75}\) Ev 49

\(^{76}\) First shown 27 August 2009 on Channel 4.
sustained jobs but at no stage should zero hour contracts be part of that programme. We are aware that many employers are moving to zero hour contracts but it is important as an industry that we work with employers to make sure that is not the kind of work we are looking for.77

75. As already discussed, on our visit to Glasgow, we met a number of customers who were receiving a minimal service which did not meet their needs. Customers also told us that provider staff could be very patronising. Very basic advice about time-keeping and appropriate dress for work was being given to highly qualified people who had worked their whole lives and who found it insulting. One customer commented that he was “treated like an infant”. The customers we met did not have the right to change provider. Very few of the customers we met in Glasgow knew how to complain, and there was little enthusiasm for doing so.

76. In oral evidence with the Minister, we raised some of the complaints we had heard. The Minister told us that he had been “hugely impressed” with the FND facilities he had visited, but was interested in hearing if they were not of the same quality everywhere.78 He also said that zero hour contracts were not eligible for outcome payments.79 However in supplementary evidence the Department clarified that as long as the employer provided the necessary paperwork a zero hours contract could count as a job outcome. Depending on the programme the employer would have to state that the job either had lasted, or was expected to last, 16 hours a week for 13 weeks (eight hours in the case of Pathways).80

77. The Minister said that customers in Glasgow could go through the three stage complaints procedure; complain to their provider, then Jobcentre Plus, then the Independent Case Examiner.81 He said that choice was being introduced for customers joining programmes in some areas,82 but he accepted that “for those that are already in the system, I would accept there may be some more difficulty, and that is where we need Jobcentre Plus to use its ongoing relationship with the customer to be able to pick up that dissatisfaction and be able to feed it back”.83 He said that work was on-going to ensure customers had a more consistent relationship with one Jobcentre Plus adviser which would enable them to raise such issues.84

78. We were disappointed to hear of a range of poor service experienced by customers. The evidence we heard was anecdotal and we have not had the opportunity to establish whether such problems are widespread. We do not doubt the commitment of most providers to customer service, but the Department and providers must work harder to ensure problems are dealt with promptly. Customers on many programmes have no right to change provider, making it particularly important that they are given a good

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77 Q23
78 Q110
79 Q111
80 Ev 96
81 Q112
82 Q117
83 Q118
84 Q119
service. We note that many of the customers we spoke to were reluctant to complain. The Department and providers need to be proactive in order to identify, even serious, problems.

79. Providers seem to agree that “zero hours” contracts should not have a place on employment programmes. However, such contracts are still eligible for outcome payments. This is unacceptable, and the Department should act quickly to ensure that “zero hours” contracts are not eligible for outcome payments.

Potential role of customers in contract management

80. We heard that customer feedback was far more than just complaints, and that it could be used both to improve the service for customers and to keep the Department informed. The Wise Group criticised the Department’s work on customer satisfaction:

while customer feedback is provided to DWP (except for the Employment Zone), the current system encompasses only sporadic conversations with clients (beyond exit interviews, inevitably capturing only the views of those who ‘stay the course’). Perhaps more revealing would be conversations with those who leave their programme early, particularly if their reason for doing so was related to quality of the provider.

81. Reed in Partnership made the same points and noted that a focus on customer satisfaction could help the Department to monitor other problems:

greater use of customer satisfaction surveys and mystery shopping results could be useful mechanisms to benchmark performance, and reduce tendencies to ‘cream’.

82. Ingeus UK agreed, and thought the Department needed to do more work in this area:

DWP needs to strengthen its ability to ensure not only that public funds are protected and best value obtained but that all customers receive a good quality service. Research into customer satisfaction is a welcome step but further work is needed to see how the customer charter and a customer satisfaction metric can be used to drive quality improvements.

83. A4e said that the Department’s approach was wrong:

Current systems across contracted programmes are more focused on compliance rather than continual improvement and we believe it is to the benefit of future service quality that this balance is redressed. […] Systems across the board need to be more engaged with customers so that they have a real voice and impact on service quality measures. This is essential if employment services are to become service led treating service users as both experts and customers.

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85 Ev 39
86 Ev 36 “creaming” is offering more help to those closest to the labour market, who are likely to gain the company outcome payments, while neglecting other customers.
87 Ev 93
88 Ev 63
84. In oral evidence it was put to the Minister that the Department’s inspection processes involved little contact with customers. He responded that:

   We do take customer experience very seriously and customer feedback is part of our contract management process. [...] We have to be clear and relatively simple in the way that we do this and the clarity and simplicity is that Ofsted or the others in the devolved areas are the people who inspect quality. I think it is right to put the principal relationship between customer and quality through the Ofsted process.89

85. Mr Cave, Delivery Director, Employment Group, DWP stressed the role of Jobcentre Plus in the contract management process. Customers on FND are still required to sign on every two weeks at the Jobcentre in addition to whatever activity they undertake with the provider. In addition, complaints which the provider cannot resolve are passed to Jobcentre Plus. Each district has a third party provision manager who will have “provider engagement meetings” with both the provider and the DWP Contract manager. Mr Cave said that this meeting was an “important forum for seeing whether there any systematic customer service issues”.90

86. It is important that providers have a complaints system in place. However, they should also have mechanisms for customers to provide feedback and comments and the Department should check that this takes place. Such information will not be comparable year on year, or between providers, or with Jobcentre Plus. We recommend that the Department carry out and publish a “Customer Survey” for customers on contracted provision, as they do for their own customers, to provide rigorous comparable data.

87. Customers can also have an important role in letting the Department know what is going on on the ground. They may be able to identify instances of creaming and parking, or to identify the reasons for a provider’s poor outcomes. We agree that one way to do this would be through customers’ continuing relationship with Jobcentre Plus. However, Jobcentre Plus staff need to be advised to initiate these conversations with customers, and to be given the time to talk to customers. There also needs to be a mechanism for any problems to be fed back to both the provider and the Department.

**Ombudsman**

88. Our last report called for both an Ombudsman for sub-contractors and an Ombudsman for customers. We said:

   As a last resort, customers should be able to take their complaints to an independent Ombudsman who would be responsible for independently resolving such disputes and for reviewing the delivery of the customer charter.91

89. In the Department’s response to that report it said that:

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89 Q108
90 Q109
Where local resolution does not prove possible, a complaint can be escalated. If a customer remains dissatisfied after having exhausted the Department’s complaints processes, they can ask the Department’s independent complaints reviewer, the Independent Case Examiner, to investigate. All DWP customers, including those who are attending contracted provision, are already able to take their complaint to the Parliamentary and Health Service Ombudsman (PHSO) for investigation.92

90. In oral evidence Mr Davies from BASE said that “personally I would like to see some sort of Ombudsman for customers of back to work services”. Mr Murdoch said that there needed to “be clear response to customer complaints” and that an Ombudsman was one way to do that.94

91. The Minister however was reluctant to set up an Ombudsman:

I am not brimming with enthusiasm for another Ombudsman to be established with all of the associated costs. In fact, someone might accuse me of setting up a new quango, and God forbid that that accusation would ever be made. We have an independent complaints examiner, so in many ways some of the functions that you would want to be performed by an Ombudsman are already there.95

92. Customers on programmes need to know how to complain about the service they receive. They need to be able to lodge formal complaints which receive a response and to escalate that complaint to the Department if it is not resolved satisfactorily. We are not yet convinced of the need to set up an Ombudsman, but the Department should keep this under review.

**Ofsted**

93. Ofsted in England, Estyn in Wales and (from January 2010) Her Majesty’s Inspector of Education in Scotland, inspect providers. Ofsted has previously inspected Employment Zones, a contracted employment programme. We heard that Ofsted might only choose to inspect prime contractors every four years, and that that inspection might only look at one sub-contractor. This would provide very limited oversight. In oral evidence the Department confirmed that Ofsted would inspect sub-contractors.96

94. Ofsted have published a consultation paper on the inspection of contracted employment programmes; it suggested an “early visit” within 12 months of the contract starting, a “survey visit” within two years but full inspections only every 4 years.97 It was not clear what work would be done with sub-contractors. The consultation paper makes

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92 DWP’s Commissioning Strategy and the Flexible New Deal: Government Response to the Committee’s Second Report of Session 2008–09 p 16
93 Q25
94 Q30
95 Q113
96 Q87
97 Ofsted, Proposals for the inspection of Department for Work and Pensions contracted employment provision from 2010 Consultation document, November 2009
frequent reference to “learners” and “education”, which may not be the appropriate language for many employment programmes. It goes on to say that:

Inspectors will focus on whether particular groups of participants are progressing into sustained employment and achieving as well as they should, including those whose circumstances make them vulnerable and those who are most ready to enter into sustained employment. We will specifically judge how well a provider fulfils its duties in terms of equality and diversity and the impact on participants’ progression to employment and other achievements.98

95. In oral evidence Mr Davies from BASE told us that there were problems with the way Ofsted works:

there is a possible issue around Ofsted recently in terms of the generic duties that inspectors are increasingly being put into so that there is a wide range of provision that inspectors may have to go into and look at. There is an element here that if you employ specialists in that area you are more likely to get a better picture of what the provision is like.99

96. The Minister however told us that Ofsted was making use of specialist inspectors:

[Ofsted] have taken on quite a variety of different sorts of inspection work, and in each one of those, particularly as they merged with the adult learning inspectorate, you have different specialisms for groups of inspectors, who need to be able to develop beyond their generic expertise as inspection services in looking at education and training.100

97. Mr Cave went on to say that the Department had a regular review process with all three inspection bodies, looking at their inspection methodology to ensure it was right for the Department programmes.101

98. We have received evidence that Ofsted has improved its inspection of providers over recent years. However employment programmes tend to rely far more heavily on the relationship between staff and customers than academic or vocational education. Motivation and self-esteem can be more important than what the customer has actually learnt. The Department needs to monitor closely that what Ofsted identifies as quality actually relates to sustained job outcomes.

99. We heard contradictory evidence about whether Ofsted was using specialist inspectors or moving to a more generic use of inspectors. Employment programmes are very different from much of the provision inspected by Ofsted and specialist inspectors should be used.

98 Ofsted, Proposals for the inspection of Department for Work and Pensions contracted employment provision from 2010 Consultation document, November 2009
99 Q11
100 Q84
101 Q86
4 Vulnerable Groups

Creaming and Parking

100. Providers are increasingly being paid by results, on the basis of the number of customers moving into work, rather than a flat fee. There are two particular risks associated with this approach. The first is that of ‘creaming’, where contractors who are paid by results are likely to concentrate their efforts on those participants who are closest to the labour market and more easily placed in a job. The second is that of “parking” where participants who are deemed furthest from the labour market will receive a bare minimum of services and are unlikely to make any progress whilst participating in a programme. In this way providers seek to maximise their profit, focusing on customers who will earn them outcome payments, while spending as little as possible on customers who will not.

101. There is evidence that creaming and parking is taking place in the Pathways to Work programme. Research by the Department found that provider staff felt that the focus on performance targets influenced their behaviour with clients, to the extent that they spent less time than required with people with multiple barriers to work (and perceived as harder to help). They also felt that they needed to encourage job ready clients to take jobs that would enable a swift return to work, rather than take lengthier routes towards jobs that they wanted.102

102. In addition, most providers who took part in the research perceived that clients were, on the whole, harder to help than they had anticipated and some staff expressed concerns that this had also led to job outcome targets being prioritised ahead of clients’ wellbeing and ability to sustain employment.103

103. Contracts are designed to allow providers to make a profit when they meet targets. While providers are not paid for meeting targets, a provider that is not meeting targets will be receiving fewer outcome payments than they had anticipated. This can lead to pressure to cut costs, for example by offering less help to those unlikely to move into work and gain the provider an outcome payment. Our previous report noted that “FND targets would require a 37.5% improvement in job outcome performance over what has been achieved by DWP contractors in the past, and this is to be done with a significant reduction in funding compared to the best performing DWP programmes”.104

104. In oral evidence, the Minister, was asked about creaming and parking in general (rather than specifically in Pathways to Work). He said that tackling the problem was complicated by those customers who might be happy to be parked:

It is very important to listen to customers, but because of precisely the point that you raise, that there is the potential for a bit of comfort on both sides—that there might be some customers who will be quite happy to be parked and there might be some contractors who will be quite happy to park them—we need to ensure that is not happening, […] the customer charters and all that are not going to expose that particular problem because there is an area of complicity about that.  

105. We were disappointed, but not surprised, to hear of evidence of “parking” on Pathways. We also note the evidence that this was linked to pressure from managers after it emerged that previously agreed targets were unrealistic. As we noted in our previous report the targets for FND are very challenging. The Department needs to focus on ensuring that this pressure does not result in customers being parked.

The “accelerator model”

106. The FND payment structure consists of a service fee and an outcome fee. However providers get the same outcome fee for every customer who moves into work, even though some customers are much closer to the labour market than others. An alternative payment structure is the “accelerator model”. Under this model the provider receives increasingly large payments per customer as they move more people into work. The idea is that, although it gets increasingly difficult to move people into work (as those who are closest to the labour market will move first) the increasing payments mean it should always be in the provider’s financial interest to provide the additional help that the next customer needs. If the payments accelerate at the correct rate it should not be in the provider’s financial interest to “park” anybody. In our previous report we welcomed the Department’s commitment to pilot the “accelerator model”.  

107. In oral evidence to this inquiry, the Minister told us that alongside robust contract management he saw the “accelerator model” as the solution to creaming and parking, particularly for those customers who were happy to be parked and would not complain. The Department had previously told us that it was looking into the feasibility of piloting the “accelerator model” in the Personalised Employment Programme Pilot. The Minister told us that the Personalised Employment Programme Pilot would include the accelerator model and would start in 2011.  

108. The Department has told us that it will try and prevent “parking” through the contract management system. However we believe that incentivising contractors to work with all customers is crucial. We again welcome the Department’s plan to pilot an accelerator model of payment and call on it to keep the Committee updated on its progress.
Cost of helping disabled people

109. RNIB and the National Autistic Society (NAS) both submitted evidence that raised concerns about the needs of disabled people. NAS was concerned about the parking of people with autism. They felt that given the high cost of moving people with autism into work it was “crucial that there is rigorous monitoring of prime contractors”. This monitoring would have to include monitoring results by impairment. RNIB agreed that contracts which were let on a regional level for all disabilities tended to lead to people with disabilities like sight loss missing out, because they were a small group who needed specialist help which was often expensive. RNIB quoted figures from a range of DWP programmes showing poorer outcomes for people with visual impairments.

110. NAS were also concerned that prime contractors would not offer enough money to sub-contractors to allow them to help people with autism:

[...] whilst many prime providers rely on specialist sub contractors to deliver support to those with more complex needs we are concerned that the price offered will lead to specialist providers being forced to either deliver support at a loss or leave the market. These concerns are based on the fact that those prime providers motivated by profit will bid for the contract using costings based on the profit margin that would occur through supporting the minimum number of clients into work.

111. BASE said that its members had already experienced problems with money, particularly in the new Work Choice programme, which is still out to tender. Work Choice (previously the Specialist Disability Employment Programme), will replace WORKSTEP in providing specialist employment support for severely disabled people:

We are aware of prime providers offering subcontracts with a 30% management fee deduction. […] The new Work Choice programme anticipates a higher level of outcomes despite reduced funding. This is compounded by the new contract management costs being taken from delivery funding rather than DWP management budgets. We believe that this will drive provision away from the harder to help clients.

112. BASE also has evidence that prime contractors are not aware of the needs of, and their duties toward disabled people:

An event in the south east of England found that only one shortlisted prime provider knew what PSA16 was about. Indeed, some said that they would refer such customers to local authority provision. This is extremely worrying for a programme whose primary focus should be to meet the needs of the PSA16 disability groups. Indeed, DWP has just issued a note to prime providers to remind them about

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110 Ev 69
111 Ev 44–5
112 Ev 70
113 Ev 96
114 “PSA 16 disability groups” are people with moderate to severe learning difficulties and those in contact with secondary mental health services. PSA 16 is the Public Service Agreement to “Increase the proportion of socially excluded adults in settled accommodation and employment, education or training”.

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PSA16. BASE is concerned that the shortlisted prime providers do not fully understand the needs of the PSA16 customer group and that their anticipated outcomes and costs may not be wholly realistic.115

113. However, we also heard that some prime contractors were offering more money to subcontractors working with the hard to help than they were receiving from the Department. Mr Lester, Vice Chair, ERSA, and Director of Operations, The Papworth Trust, said:

I know a number of providers who deliberately and explicitly stream the customers. [...] they will identify customers in different levels of support and they pay for that accordingly. In the Papworth example, Papworth are paid by a couple of our prime contractors at a rate which is greater than they receive from DWP because Papworth is only dealing with those people who are further from the labour market than others.116

114. Mr Murdoch, Chair, ERSA and Executive Director, A4e told the Committee that prime contractors understood they were expected to offer subcontractors more than the Department’s outcome fee for moving the hard to help into work:

You need to understand that within the programme that FND was designed for there will be customers that you pay far more than the average as well as others you invest less in. That is the nature of the prime contractor within that so picking partners where you invest in their services to move those people into sustainable jobs.117

115. We were very pleased to hear that some prime contractors were offering subcontractors these higher outcome payments. However, we have heard evidence of parking on employment programmes. We do not believe that the Department can rely on the altruism of these prime contractors to ensure that these customers are not parked.

116. We were very pleased to hear that under Flexible New Deal some prime contractors were offering higher outcome payments for the harder to help than they themselves receive from the Department. However the Work Capability Assessment is leading to more people with health problems on Jobseekers Allowance, and to a higher proportion of the severely disabled on Employment and Support Allowance. This will lead to providers needing to work with customers with more severe barriers than they had anticipated. The Department must work with providers to ensure appropriate support is provided for these customers.

Those that programmes don’t serve well

117. Mr Murdoch told the Committee that despite some prime contactors offering higher outcome payments for the harder to help, there were still those that FND would not help:

115 Ev 96
116 Q40
117 Q42
Those people who have more long-term conditions that are furthest away from the labour market we must look at how we fund the interventions to help those people enter sustainable jobs and that is key. The funding for Flexible New Deal will not be appropriate for those with higher barriers to cross.\(^{118}\)

118. Mr Lester agreed, telling us:

We are absolutely certain that the employment programmes that exist are good for the people they are designed to serve. We are equally certain there are a whole bunch of people who do not get served by those programmes and that worries us[...]. There are people who do not get the right support. That is a statement of fact; it is not a criticism of those programmes that exist because those programmes that exist work well.\(^{119}\)

119. Mr Lester said that Papworth Trust had estimated that there were between half a million and one million people who were not properly served by any of the Department’s programmes, including FND.\(^{120}\) The Minister rejected this saying that “I am not sure I do recognise that figure. FND providers have responsibilities to deliver a service according to the individual needs of the customers that are referred to them”.\(^{121}\) He went on to acknowledge that the introduction of Employment and Support Allowance had changed the profile of Jobseekers Allowance claimants “a little” but said that “our expectation is for FND providers to be able to deal with that, at times perhaps working with some of [our]other programmes.”\(^{122}\)

120. Providers have told us that for those with the greatest barriers to work Flexible New Deal funding is not appropriate. One provider told us that there are over half a million people who are not served by current DWP programmes. We call on the Department to investigate the issue, and to supply the Committee with its estimate of how many people are not served by current programmes, and details of the measures they are taking to ensure that FND and other programmes cover all those who need help.

**DWP monitoring**

121. The Department can collect data on provider’s provision for people with disabilities in a number of ways. Monitoring involves regularly collecting management information and collating it to find out how many people with disabilities move into work. It may be possible for detailed information to be collected either on the basis of a customer’s specific impairment, or more broadly by impairment group, for example physical disability, sensory impairment or mental health problem. Another option is an evaluation, a one-off study of the quality and impact of service provision for people with disabilities. In addition
the Department should use the contract management system to look at what services are on offer for disabled people, and assess whether they are of good quality.

122. NAS thought the solution to ensuring that providers helped all groups was close monitoring by the Department to ensure prime contractors had contracted specialist provision:

Without tighter monitoring of the relationship between prime contractors and subcontractors, those with the most complex needs are likely to miss out on specialist support. If prime providers are to successfully engage with sub contractors it is important that there is a strong Code of Conduct governing this relationship.123

123. RNIB was also concerned that while job outcomes were important they should not be the only outcome monitored:

This is particularly true in terms of the progress made by those people who do not obtain a job and even amongst the top performing providers it is likely that these clients may represent the largest single cohort.124

124. In oral evidence ERSA said that they welcomed monitoring of outcomes for different groups. Mr Murdoch said that:

from ERSA’s perspective, capturing that data and responding to that is going to be key. It is our aim to make sure we do not leave any customers behind [...] gathering that data needs to be a core aim for DWP to give us feedback. That is the stewardship role. If there are people being referred to FND who are not getting the service they deserve, are they appropriately referred? Why is the budget not available? Those questions need to be answered.125

125. The Department said that its evaluation of FND will include monitoring the outcomes for sub-groups of customers. However, in oral evidence Mr Cave from DWP clarified that there would not be a stream of management information classifying people by impairment or disability.126 In oral evidence, Mr Davies from BASE told us that Work Choice, despite being a programme specifically for disabled people, may also not have monitoring by impairment:

I have heard talk that it may be resisted as micro-management of providers. Certainly BASE will push very hard, along with some of the national charities, to make sure there is some in-depth evaluation of the Work Choice programme to make sure that specific disability groups are not missing out, people with significant mental health needs and with moderate to severe learning disabilities and so on. There is a concern that we are going to capture that data in enough detail to be able to tell.127

122 Ev 70
123 Ev 43
124 Ev 43
125 Mr Murdoch Q47
126 Q146
127 Q46
126. The Department has told us that it is confident that Flexible New Deal will meet the needs of all customers, including all those moving from Incapacity Benefit onto Jobseekers Allowance. We also note the range of measures it is taking to prevent parking. However, as the Department will not be collecting management information by impairment, it will not know whether these measures are working. The characteristics of those claiming Jobseekers Allowance are changing and there are increasing numbers of people with health problems and disabilities receiving the benefit. The Department must recognise this and ensure that the evaluation of FND examines the impact on different impairment groups. In addition the contract management process must pay close attention to what services providers are offering people with disabilities. If problems emerge then monitoring by impairment should be introduced.

127. We were concerned to hear that there may not be monitoring by impairment on Work Choice. This is unacceptable in a brand new programme specifically designed for severely disabled people. We call on the Department to introduce monitoring by impairment groups for the first two years; progress can then be reviewed.
5 Sub-contractors

DWP and “market stewardship”

128. The Department is moving from a system where it contracts directly with providers, to a prime contractor model. Under this model the Department contracts with a prime contractor, (who may deliver some services themselves) who then subcontracts to smaller providers. In written evidence the Department explained that:

[...] the Commissioning Strategy committed the Department to a market stewardship role: playing an active and transparent role to ensure that smaller, local providers, who have the capabilities needed and who perform well, can flourish and develop.128

129. The Department sees itself as being very involved at all levels of the market. The Code of Conduct says that the Department will “ensure that delivery providers can have a ‘voice’ direct to DWP, not just as a vehicle for talking about common problems, but as an opportunity to share insights that are best understood by those dealing with our customers”.

130. In oral evidence we heard that the Department seemed to be devolving much of its responsibility for employment programmes. Mr Davies from BASE told us that:

If we are going to have this active stewardship, I am not sure what it looks like and what it means. I have not seen much evidence of a will to bring in this active stewardship of the market. We have seen DWP hand over some of the requirements for contract management of the supply chain and quality assurance within there so they are not hands on with that. There is a lot of looking but I am not sure there is much doing […]. All the evidence is that they are going "We do not really want to".129

In oral evidence, the Minister explained that the Department was “contracting responsibility”:

I am concerned that we do not end up with just a few prime contractors who have absorbed everybody else and that we then do not have a competitive market in which to take this work. Are we devolving responsibility? We are contracting responsibility. We can argue about words, but we remain with ultimately the responsibility for those customers until they go off our books, they are no longer receiving benefit, and they are back in work.130

Code of Conduct

131. The Code of Conduct was published as part of the DWP’s Commissioning Strategy in February 2008. It governs the relationship between prime contractors and subcontractors.

128 Ev 91
129 Q52
130 Q155
The Code is 4 pages long and covers; Values, Pre-awarding of contract, Post-awarding of contract, Equality and diversity, and TUPE. Some of the Code is very definite and specific, for example it specifies that:

There will be no “poaching” [of] potential delivery provider staff during sub-contracting negotiations.

132. However other parts of the Code are more subjective, for example there is provision that:

Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks.

133. The Code also says that the Department will undertake to:

- monitor and enforce the Code of Conduct consistently and fairly;
- [...] act as stewards of the supply chain in its initial stages supporting providers and Contract Managers in the implementation activity from contract award through to live running;
- actively promote awareness of and adherence to the use of the Code of Conduct by top-tier providers and delivery providers;
- provide a grievance route for delivery providers who believe that the Code of Conduct is not being adhered to; and
- ensure that delivery providers can have a ‘voice’ direct to DWP, not just as a vehicle for talking about common problems, but as an opportunity to share insights that are best understood by those dealing with our customers.

134. Most submissions we received made little or no comment about the Code of Conduct. The Association of Learning Providers said it “goes some way towards mitigating behaviours between contracting partners but as yet there is not much evidence that it has enough “teeth” to resolve serious problems”.  

131 In oral evidence, Mr Davies from BASE said:

[...] as far as I am aware there were not any subcontractors involved in the development of the Code of Conduct. There is widespread scepticism about that Code of Conduct unless it is a legal part of the contracts and enforceable. It is full of words like “should” and “expect” rather than “will” and “must”. It is largely seen as a bit toothless and irrelevant.

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135. However several submissions said that they hope the new Merlin system (discussed below) would be more effective. Working Links said that Merlin was being developed because:
it was felt that the existing Code of Conduct was largely toothless, was only a contract requirement for prime contractors, allowed no redress for poorly treated subcontractors and did not do enough to raise standards across the supply chain.\textsuperscript{133}

\textbf{New York City}

136. In oral evidence Mr Davies, from BASE drew our attention to DWP research which looked at the experience of New York City.\textsuperscript{134} New York City has, like DWP, adopted a prime contractor model of employment services with outcome payments. However, unlike in the UK, New York City does not see itself in a “market stewardship role” and the contracts do not include any requirement about the quality of customer experience or a requirement to use sub-contractors. Many providers in New York City have adopted a “work first” model of employment provision. Advisers adopt a “sales-like” approach, selling the benefits of work to customers. They aim to move customers into any work in the belief that this will overcome any barriers they have. Specialist help is generally not provided, so some prime contractors have no subcontractors.

137. The report noted that

With just eight prime providers in the NYC welfare market at present, it is fair to say that market diversity is limited. The use of sub-contractors is very much left to the primes and has decreased in recent years […] . The low level of sub-contractor service provision has been accompanied by, and is possibly attributable to, the ‘hands off’ approach of funders towards prime/sub-contracting arrangements and relationships.

138. It concluded that:

The NYC example […] reinforces the current British approach of paying careful attention to the structure of the market, both in the initial phase of implementation and on an ongoing basis in order to secure:

\begin{itemize}
  \item a diverse market that offers clients real choice;
  \item a market that drives and sustains innovation;
  \item a market that embraces and fosters the contribution of a flourishing Third Sector;
  \item a market in which relationships between primes and sub-contractors are governed by a code of conduct.
\end{itemize}

139. While prime contractors in New York City are not required to use subcontractors, if they do use them then the subcontractors are protected:

[…] sub-contract arrangements must be approved by the HRA,\textsuperscript{135} and are monitored by site visits. Prime-sub-contractor relationships are not governed by a code of

\textsuperscript{133} Ev S2

\textsuperscript{134} Q52, Dr Armstrong, Yvonne Byrne, Lisa Patton and Sarah Horack, Department for Work and Pensions, Welfare to work in the United States: New York’s experience of the prime provider model, 2009

\textsuperscript{135} HRA, Human Resources Administration, whose role is to ‘coordinate and integrate the City’s human services programmes’
conduct, but if problems arise, the HRA can intervene of their own will or at the request of either the prime or the sub.

140. The report concluded that monitoring and intervention was important:

[...] delivering services through sub-contracts requires not only monitoring but also intervention to ensure that service delivery is not jeopardised by difficulties at either the prime or the sub level, whether those difficulties are related to capacity, to infrastructure or to the prime-sub relationship.

141. The New York City experience has shown that it is possible to run a commercially successful prime contractor making little or no use of sub-contractors. It has also seen the numbers of subcontractors decrease over time. The Department cannot rely on market pressure alone to ensure that sub-contractors remain involved. However the New York City experience has not demonstrated whether “prime only” contractors were able to provide a quality customer experience, or whether they have the same long-term outcomes as those who used subcontractors.

142. New York City does not require prime contractors to use sub-contractors, and it does not see itself as having a “market stewardship” role. Despite this, when subcontractors are used it has been necessary for them to intervene in the relationships between prime contractors and subcontractors to ensure service delivery is not jeopardised.

Unfair treatment in the UK

143. Some submissions to this inquiry felt that the prime contractor model combined with little oversight by the Department could lead to small contractors being exploited. This view was not universal, the Wise Group said that:

We welcome the prime contractor model as useful in not only reinforcing localism, but also building capacity amongst smaller organisations in the Third Sector.136

144. A4e also cautioned that:

DWP’s role in the protection of supply chains needs to be carefully balanced against the need to ensure that the benefits derived from allowing the top tier of quality Prime Contractors to use their position to find ‘what works’ is not needlessly impeded. Imposing too many barriers will return the welfare to work market to an era of micro-management, albeit by proxy.137

145. In oral evidence, A4e told the Committee that they ensured that their contracts with sub-contractors reflected the terms they received from the Department.138 However during the course of this inquiry we heard of a number of instances that did not meet the high standards described to us in respect of: tendering, the terms of contracts and in force.

136 Ev 36
137 Ev 65
138 Mr Murdoch Q43
**Tendering: Pathways to Work**

146. We heard that many of the sub-contracting arrangements in Pathways to Work had broken down. The Department told us that, of 33 original third sector subcontractors, 28 are still delivering Pathways.

147. Despite the figures showing that most subcontracting arrangements had been honoured there was a perception amongst providers that there had been problems. In oral evidence, Mr Davies from BASE told us that there had been problems with tendering for Pathways but that lessons had been learnt:

> There was some bad faith and the DWP have learnt from that. For instance on the tendering of Work Choice, now primes have to list the subcontractors they have agreed to work with and they will be held to that.¹³⁹

148. While Mr Lester, Vice Chair, ERSA and Director of Operations, The Papworth Trust added that there was still room for improvement:

> There is no doubt Pathways was really the first contract to use the prime/sub model with any significance and there was learning to be done. Part of that learning is with Flexible New Deal and Work Choice it is more overtly articulated who the subcontractors might be [...]. I am certainly seeing it in the bid opportunities that Papworth have been involved in that things have changed and the way people approach it is far more clear and robust. Is it perfect? No. There will be improvements to be made but it was better than in the Pathways.¹⁴⁰

149. Mr Cave, Delivery Director, Employment Group, DWP noted that the system cannot be too rigid because there are cases when the Department wants prime contractors to change sub-contractors:

> [...] if bidders go into a competition with the best of intentions and say, “These are supply chain arrangements” and then discover in practice that some subcontractors are not delivering to the extent that they should be, we want them to change those arrangements. We have no investment in maintaining supply chain arrangements which are not effective.¹⁴¹

**Tendering: FND**

150. The system of tendering for FND is different from Pathways. When a potential prime contractor submits a tender for FND to the Department they must provide information about which sub-contractors they will use and what work those subcontractors will perform. However, we also received evidence of problems with this new system. The City Strategy Pathfinders Learning Network said that:

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¹³⁹ Q49
¹⁴⁰ Q49
¹⁴¹ Q121
Pathfinders report that they have found themselves characterised as ‘key stakeholders’ or ‘delivery partners’ in bids after only very limited contact and superficial relationships with some potential primes.\(^\text{142}\)

This could lead to the Department receiving bids that indicated that the prime contractor had working relationships with people in the area, and had worked with them to design their programme, when that was not the case. The City Strategy Pathfinders Learning Network also said that “there is only modest confidence that tools like the ‘letter of intent’ are sufficient safeguard for subcontracting arrangements.”\(^\text{143}\) It also suggested that bids should be scored on supply chain development.\(^\text{144}\)

151. In Glasgow we were told that one company had applied to eight potential prime contractors to be a subcontractor; it had only heard back from two and did not know whether its name had appeared in bids. In oral evidence we put this case to the Department. Mr Cave told us that “we require each bid not only to say what its subcontractors are but to submit evidence from those subcontractors to show that they are aware that they are in that bid and have given their assent to it”.\(^\text{145}\) However, the Minister added that “I get some of that feedback [that subcontractors do not know if they are in bids] as well and I am trying to make deliberate efforts to hear that feedback by meeting with some of those third sector providers”.\(^\text{146}\)

152. Also on our visit to Glasgow, we heard that three large organisations had each bid for prime contractor status. However, each named the other two as sub-contractors in their bids. As a result, it did not really matter who won the contract. In addition, because the companies involved were so large, they would need to make no, or very limited, use of any other sub-contractors, including those with a track record of provision in the area. Similar practices have been described in the press. On 14 December 2009, Regeneration & Renewal magazine reported that:

Senior figures in the sector told *Regeneration & Renewal* that some prime contractors are agreeing, behind closed doors, to subcontract to each other on a reciprocal basis. "Prime contractor X says to prime contractor Y: 'If you subcontract to me in your area, we'll subcontract to you in our area'," one source said. "This means that smaller providers, particularly those in the third sector, may get shut out."\(^\text{147}\)

This sort of practice would seem to us to constitute a cartel.

153. In oral evidence the Minister told us that:

I would also say that more recent invitations to tender have required details of organisations who will deliver the key element, including subcontractors. If I had

\(^{142}\) Ev 67 Pathfinders are composite bodies, which could include subcontractors. However, they are more likely to be consulted as experts in the local area and ensuing provision does not overlap.

\(^{143}\) Ev 67 As part of the tendering process prime contractors must submit a signed “letter of intent” which includes the subcontractor’s declaration of understanding regarding the terms of delivery agreed with the prime contractor.

\(^{144}\) Ev 67

\(^{145}\) Q122

\(^{146}\) Q125

\(^{147}\) http://www.regen.net
evidence that in an area this was effectively being used by primes through subcontractor relationships to carve things up, then I would be concerned that we had not picked that up through the more recent changes we had made in relation to tender processes.148

**Terms of Contracts**

154. The Association of Learning Providers told us that there is evidence of subcontractors being taken advantage of. An FND prime contractor “inadvertently” informed its sub-contractors that its contract with the Department had a 40% tolerance level built into projected volumes for payment. However, the prime contractor had only passed on a 15% tolerance to sub-contractors. The submission continued:

[...] it is doubtful whether these arrangements would have come to the notice of DWP, and therefore been flagged up as a potential risk to front-line delivery, without a well-intentioned but inadvertent slip on the part of one of their Primes—certainly subcontractors we have spoken to do not believe that DWP’s contract management structure would have identified it as things currently stand.149

155. Another issue around contract terms was brought to our attention by Mr Davies from BASE. He told the Committee that there “are real issues about management fees [for Workchoice]. 30% seems to be the standard. I have concerns that the actual funding that is left to deliver programmes is going down and down”. When prime contractors pass payment on service fees and outcome payments to subcontractors they deduct a management fee. Some prime contractors will provide a lot of services for their subcontractors, others very little.

156. Mr Murdoch, Chair, ERSA and Executive Director, A4e told us that the Department needed to become more involved in ensuring contracts were fair:

ERSA demands a diverse effective supply chain that provides best possible service for the customer. It is important, therefore, that DWP get involved in some of these issues around service fee and how it is passed on to the partner. They need to get involved and look at the issues in our market. Without that we could lose some fantastic organisations that maybe do not have some of the financial nous, the scars of the commercial world, in order to survive. It is important DWP in its role of stewardship looks into these issues.150

157. In oral evidence, Mr Cave from DWP told us that very different pricing models could be fair depending on how work was divided between the prime contractors and subcontractors:

I can envisage that you might have a prime contractor whose model is to take on the cost—because they have the prime contract—of a lot of investment in systems facilities and management processes, in order to free the subcontractors up from

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148 Q142
149 Ev 78
150 Q50
that. That will affect the pricing arrangement which they come to. Others may take
more of a stance of saying, ‘We want a subcontractor to do end-to-end service
delivery in a particular area’ so you would get a different arrangement there, and so
on.  

158. Mr Cave went on to say that the Department had not seen any Work Choice bids yet
but that “we do not have a standard view on what the commercial relationships should be
between the prime contractor and a sub”.152 He said that he could ask to see contracts with
sub-contractors, but that this was not routinely done.153

159. The Minister then clarified that “I would not want you to think we do not care at all
about what happens to the subcontractors” and that that was why Merlin and the Code of
Conduct had been developed.154 However these all worked “on the basis that in the end our
prime relationship is with the prime contractor”.155 Mr Cave noted that sub-contractors
can and had walked away from contracts when they were not happy with the pricing
structure. He thought that those providers with a genuine specialism would have the
market power to force changes to the terms of contracts. 156

Contracts in force

160. We heard other reports of problems in the relationship between prime contractors
and subcontractors when contracts were in operation. On our visit to Glasgow we heard
from several subcontractors that they were only sent the very hard to help by prime
contractors which made it difficult for them to get outcome payments. One had
successfully taken part in New Deal despite this, although another had had to pull out of a
contract because they were losing money.

161. BASE told us about the experience of some of its members in Pathways. It said:

In two [Pathways to Work] contract areas, we are aware of difficulties where the
prime provider has not paid the subcontractor since the start of the contract. One of
these subcontractors sought to challenge this by contacting DWP only to be told that
DWP does not speak to subcontractors. This seems at odds with DWP’s stated aim
of “active stewardship” within the market.157

162. In oral evidence the Department told us that this would be a breach of the prime
contractor’s contract with the Department which requires that sub-contractors are paid
within 30 days. The Minister said he would be concerned if subcontractors were not being
paid. Mr Cave said that “we get a lot of contact from subcontractors. I do not think there
is a sense out there that our doors are closed to them”.158 However, in oral evidence, Mr
Davies from BASE told us that it was “difficult for subcontractors to raise these issues with the Department because the Department is turning around and saying ‘We do not talk to you. We only talk to Primes’ so where do they go?”  

163. Practices have been reported to us, and reported in the press, whereby potential prime contractors are submitting tenders which subcontract to each other on a reciprocal basis, squeezing others out of the market. We were very disappointed that the Minister was not able to tell us that we had been mis-informed. The practices described to us should have been easily visible to the Department at the tendering stage. The Department must look not just at what percentage of work prime contractors are devolving to sub-contractors, but at who those subcontractors are. If a cartel is operating it should be broken up.

164. The Department’s Code of Conduct says that “Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks”. In order to enforce this the Department must have a clear idea of what constitutes “fair”, we are not convinced that it does. The Department needs a clear idea of what constitutes a fair contract, and to make this known to providers.

165. We were very concerned by the reports of subcontractors who have not been paid. We welcome the reassurances of the Department that it is willing to get involved in such cases. However, this does not seem to have happened in practice. The Department needs to ensure that its staff are aware that they should intervene in such cases, and that subcontractors know who to contact. The Code of Conduct says that the Department will “ensure that delivery providers can have a ‘voice’ direct to DWP”. This is clearly not happening, the Department must ensure that it does.

166. We welcome the Department’s stated policy of “active market stewardship”. However we are not seeing it happen in practice. The Department needs to clarify what constitutes fair treatment of subcontractors and ensure that prime contractors meet these standards. So far, it is clear to us that the Department does not even have a clear idea of what constitutes fair treatment, and, despite the rhetoric, has shown no willingness to get involved with even the most serious cases.

**Market failure**

167. While market failure is a term which is often used to describe a market where there is not fair competition, it can also describe a situation where a market collapses and fails to meet demand. We heard that while unfair treatment of subcontractors could lead to an individual subcontractor going out of business, the Department also needed to be aware of the risk of market failure. As has already been discussed, the New York City authorities, who did not see themselves as taking a “market stewardship” role, still found it necessary to monitor the treatment of subcontractors to ensure service delivery was not jeopardized. The Association of Learning Providers told us that stability was needed, especially while the system was being set up:
We understand that one of the ultimate aims of DWP is to actually distance themselves to some degree from supply chain arrangements below PC level, seeing them as purely commercial agreements, and they are correct in this to a large extent. However, it is understandable that all providers are concerned as to how viable and workable the system will be, and we feel that DWP would be ill-advised to take this sort of step back at too early a stage until the system becomes more embedded, effective and familiar to all concerned.  

168. Mr Davies from BASE told us that:

There is a real danger sometimes that they [subcontractors] will just jump at any deal that is offered and that it will not be financially viable. I am not sure what level of risk assessment has gone on looking at the possibility of market failure among subcontractors. I think that is potentially quite a big issue as we go on.

169. If the Department is not aware of the details of contracts with subcontractors, of how risk is shared, and how changes in on-flows will affect subcontractors, it will be difficult for it to predict the circumstances that would lead to large numbers of subcontractors going out of business or withdrawing from contracts. For example, we have already looked at a case of a prime contractor who received a 40% on-flow tolerance from the Department. The Department would therefore expect the system to be able to cope with on-flows 40% above what was originally predicted. However, the prime contractor had only passed a 15% tolerance onto the subcontractors. As a result the subcontractors would start to have financial problems when on-flows were only 15% above what was predicted. If the Department had not seen the contract this would come as a surprise.

170. We do not know how widespread unfair treatment of subcontractors is, but neither does the Department. If such behaviour by prime contractors were to be widespread it would have the potential to put otherwise viable subcontractors out of business, leading to a loss of specialist knowledge in the market. However, it could also jeopardise the delivery of contracts or lead to market failure; the Department must be alert to this risk.

The role of small organizations in the Employment Market

171. In Glasgow, we were told that, as part of the City Strategy, prime contractors had been contractually required to run workshops for potential subcontractors. The aim was to encourage them to take part in the City Strategy, and give them the support they needed to do so. The City Strategy management had been disappointed with the response from subcontractors, but said they were not sure why the process hadn’t worked as they had hoped. We were told that the Department’s requirements for IT security and administration were burdensome and beyond the reach of small contractors. The processes of having to submit tenders to many potential prime contractors, but only getting the work if that prime contractor then won the contract, created a lot of work for potential subcontractors.
172. However the small contractors we met in Glasgow told us that much of this was untrue. One organization told us that it had bought the required encryption software, and used it to submit data on behalf of a range of voluntary sector organizations. Another organization told us that it had passed a full EU audit. A third had previously been asked by the Department to manage subcontractors and undertake the administration for a DWP pilot. Medium sized third sector organizations had provided administrative support for smaller ones. The small contractors we met felt very strongly that prime contractors were using their size as an excuse to keep business for themselves. One organization had delivered a service successfully for the past seven years. It was not allowed to tender to be a prime contractor because it was too small, so submitted Expressions of Interest to potential prime contractors. However, the prime contractor which won the contract decided to take the work in-house. In oral evidence, Mr Cave told us that he felt that that was an example of competition.162

173. There are barriers to small providers tendering for contracts, particularly the need to submit tenders to multiple potential prime contractors. However, in Glasgow we were very impressed with the measures small organizations had taken to work together and share expertise and resources. Every help needs to be offered to ensure that small providers can participate in the market; however, the Department must ensure that the biggest barrier to potential subcontractors is not the attitude of prime contractors.

174. We heard that providers who had run a service successfully for many years could lose work if they were too small to tender to be a prime contractor, and the prime contractor that won the contract then took the work in-house. This loss of local expertise and a proven service cannot be in the interest of customers. Tenders should be judged on their impact on existing services which are working well.

Merlin

175. The Department is overseeing the development of a bespoke accreditation based standard—the Merlin Standard. An industry led Merlin Advisory Group will take responsibility for overseeing the development of the standard which will draw on existing best practice in relation with subcontractors used in the sector:

[...] it was proposed that a two year pilot of a ‘Merlin Standard’ should be developed to produce an industry supported accreditation process specifically designed to address the Code of Conduct, taking into account and dovetailing with existing standards and internal processes. In addition there should be an arbitration and mediation function to consider grievances which have failed to be resolved through normal dispute resolution processes.

DWP will fund this pilot in the early days, moving towards an outcome of an independent and self-funding industry led accreditation and information service being in place by July 2011 (Merlin Standard).163
The Invitation to Tender for Flexible New Deal Phase 2 provides more information, saying that:

The Merlin Standard will underpin the contractual requirements of the Code of Conduct that is already part of the Prime Contract. Additionally it will link to a mediation and arbitration service where there is evidence that suppliers are acting in breach of the contractual obligations of the Code of Conduct.

The contractual consequences of the Merlin Standard will be developed and communicated as part of the two year pilot. As this pilot period aligns with the procurement and implementation phases of Flexible New Deal Phase Two, suppliers are asked to bid on the basis that the Merlin Standard will apply to the Flexible New Deal Phase Two contract, either at the outset or during the contract period.164

The Papworth Trust suggested that, if the Department had closer links with subcontractors, Merlin would be unnecessary:

[...] there should be a clear link between the DWP and the larger sub-contractors, in essence to provide DWP with visibility of the performance across the contract and see what value prime contractors are adding. This could also provide a clear route for sub-contractors to raise concerns and in some circumstances ‘whistle-blow’ should any malpractice occur, thereby removing the need for other systems such as the Merlin project currently being developed. 165

In oral evidence we heard that Merlin was too bureaucratic,166 and was “being imposed from DWP from afar”,167 and that there seemed to be no opportunity to resolve disputes other than by going to the Ombudsman.168 BASE suggested that the Department should have a role in dispute resolution to avoid things having to go to the Ombudsman. It also said that very few small providers had heard of Merlin.169

Mr Cave told us that while the Department’s written evidence said that Merlin would not start until July 2011, Merlin would actually start to operate quite quickly:

We are starting to use Merlin on a pilot basis in February/March next year with FND phase one providers and that would be then used in FND phase 2 as that comes in. It is not there at the very beginning of FND phase 1, but it is very shortly afterwards. 170

The Minister went on to explain why Merlin was necessary:

[...] principally the contract between ourselves and the prime contractors is a contract between ourselves and the prime contractors and the code of conduct is within that contract to dictate to contractors how they should behave. What then...

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164 DWP Flexible New Deal—Phase 2 Invitation to Tender Provision Specifications and Supporting Information 2009 p 41
165 Ev 35
166 Q58
167 Q56
168 Q56
169 Q56
170 Q129
follows, inevitably, is that to work on the supply chain and to ensure that we have a very healthy market within the supply chain there are some things that you are not going to be able to legitimately agree with in that contract between ourselves and the primes and where there is merit in having an additional process. That is where the Merlin Standard comes in.\textsuperscript{171}

181. After we had finished hearing oral evidence the Department published the Draft Merlin Standard. It consists of four principles: Supply Chain Design, Commitment, Conduct and Review, which are then spelt out in detail. Prime contractors submit evidence to Merlin that they meet the standards set out in the principles. They then go through an assessment process which includes a site visit and talking to subcontractors. They are then graded as “Excellent”, “Compliant” or “Unsatisfactory”. There is no reference to what the consequences would be from the Department as the result of an “Unsatisfactory” grade. The draft contains no reference to any process to resolve disputes between prime contractors and subcontractors.\textsuperscript{172}

182. However, in practice it may not be possible to separate the role of Merlin from the management of contracts as a whole. It is not yet clear whether Merlin will issue guidance as to what is acceptable in contracts, or only adjudicate on disputes. It is also not known whether those decisions will be made public. However, as has already been discussed, the treatment of subcontractors can not be separated from the operation of the market as a whole. Merlin’s decision on for example, whether or not it is acceptable not to pass on on-flow tolerances will determine how the market copes with changing volumes. Merlin could make a decision, or series of decisions, which forces certain sub-contractors out of the market. We do not know if the Department would be able to over-rule any such decisions.

183. The Invitation to Tender for Flexible New Deal Phase 2 says that Merlin “will link to a mediation and arbitration service where there is evidence that suppliers are acting in breach of the contractual obligations of the Code of Conduct”. However, the Draft Merlin Specifications contain no details of a “mediation and arbitration service”. If a prime contractor is in breach of its contract with the Department we fail to see why the Department would not get involved itself. There may be a role for a formal arbitration service to look in detail at contracts; however, sub-contractors should be able to approach the Department first, and the Department should be able to resolve clear cut cases.

184. Decisions made by Merlin will have implications for the viability of individual subcontractors and for service delivery. Its decisions on what constitutes fair risk sharing will affect the ability of the market to cope with changes in on-flows. Potentially Merlin could make decisions which would result in a crucial subcontractor, or large numbers of subcontractors, leaving the market or going out of business. It makes sense for the Department to make these decisions itself, allowing it to ensure the market develops in a way which is stable, robust and meets the needs of customers.

\textsuperscript{171} Q139

\textsuperscript{172} Merlin, Promoting supply chain excellence. http://www.dwp.gov.uk
The Draft Merlin Specifications provide for prime contractors to be graded as “Excellent”, “Compliant” or “Unsatisfactory”. We call on the Department to spell out what would be the consequences for a provider of receiving an “Unsatisfactory” grade.
Conclusions and recommendations

Prevention of Fraud

1. Levels of detected fraud in contracted employment programmes are low. We were also told that there is little evidence that there is a problem with undetected fraud. However the frauds uncovered to date have highlighted the extent of the risk that weaknesses in the system could be exploited. The Department must ensure that processes for the detection of fraud are rigorous and robust. (Paragraph 15)

2. The Department was not able to tell us how many fraud cases to date had come to light as a result of the provider notifying the Department. Until now it seems that the majority have been identified either by whistleblowers or through the Department’s own processes. The Department needs to issue clear guidance to providers about what problems can be dealt with internally and when it must be informed. The Department must also keep records of when providers notify it of suspected fraud. (Paragraph 17)

3. It is a matter of concern to us that the Department is moving towards a system based on providers detecting fraud themselves and notifying the Department. On past performance this would seem highly optimistic. If the Department is to continue down this route it must work with providers to develop a system which is rigorous and transparent. (Paragraph 18)

4. We welcome the Department’s four key principles for employment programmes. They provide a good minimum standard for providers to work from. However we are concerned that there is not an outright ban on individual bonuses linked to job outcomes. These have played a role in at least some of the past frauds, and could do so again in future. (Paragraph 23)

5. We have heard that the current paper based system for verifying job outcomes is bureaucratic and unpopular. We are worried by reports that some employers are charging providers for the paperwork they have to complete. The Department must ensure that the burden of paperwork does not discourage employers from hiring people on employment programmes. (Paragraph 32)

6. There is not yet any clear evidence as to how effective off-benefit checks are for verifying that FND customers are in work. Were they to prove reasonably accurate we could see the potential benefits to the Department, providers and employers, of relying more on off-benefit checks combined with random checks, as the Department proposes. However, we believe any move to a less bureaucratic system, with savings for both providers and the Department, should be balanced by severe penalties for any provider which has fraud taking place in its organization, systematic or otherwise. A system of deterrent could be as effective, and cheaper, than the current system of paper-based verification. (Paragraph 33)

7. The Department needs to be clear about the purpose of the service fee. FND has several mandatory parts, which include an initial assessment, a work focused action plan, and four weeks full-time work related activity. If the service fee is a fee for
services rendered, then the Department needs to check that these activities take
place, and demand a refund of the service fee if they do not. If the service fee is
actually an up-front payment for set-up costs it should be renamed to avoid
confusion. Whichever is the case, the Department needs to ensure that there is
monitoring of the mandatory parts of FND, and that providers are clear that the
Department expects them to be delivered. (Paragraph 40)

8. Anyone involved in fraud risks criminal sanction. However at the moment
companies where fraud is found which is not systematic face no penalty beyond
repayment. This is not acceptable. Where the Department has identified
“inadequate management oversight and controls on the part of providers” allowing
fraud to take place, providers should be penalised. The Department can terminate
contracts in the most serious cases, but in all cases there must be financial penalties
beyond the repayment of fraudulently claimed outcome fees. (Paragraph 45)

9. The Department is moving to a system where providers are taking more
responsibility for detecting fraud through their own internal procedures, while the
Department carries out less auditing itself. The Department should combine this
model with stringent financial penalties as one way to ensure providers are focused
on preventing fraud. (Paragraph 46)

10. We welcome the Department’s commitment to publish the lessons learned from Risk
Assurance Division (RAD) reports but we believe this does not go far enough. We
also welcome the fact that A4e were in favour of RAD reports on the company being
published. We agree with the Minister that in cases where there is no case to answer
RAD reports should not be published. However where wrong doing is found they
should be published, with redactions where necessary. If this would prejudice an on-
going investigation the report should be published after such investigations are
finished. We believe that seeing the detail of the report will provide valuable lessons
for other providers, and that publication will also provide another form of deterrent.
(Paragraph 53)

11. We were surprised that the Department does not routinely share the results of
investigations with other Government departments, non-departmental public bodies
or local authorities. It should do so, and also ensure it is notified of investigations by
other bodies. While the Department has not identified any “systematic fraud” it has
identified cases of “inadequate management oversight and controls”, something
which must be shared with other bodies who have contracts with those companies.
(Paragraph 54)

Customer Service

12. We received strong evidence that customers need more information about what help
and support they can expect from providers. We recognise that there could be a
tension between this and the “black box” approach. However, in Glasgow we met
clients who were receiving very little help, and who had no idea that personalised
help and training were options. Jobcentre Plus staff should have a role in monitoring
provision, and talking to customers about what help and training they have been
offered. The customer could then challenge the provider if they felt they were missing out. (Paragraph 65)

13. The ERSA Charter is currently voluntary and unenforceable. Customer rights need a much higher status than this. It is also important that customer rights are enshrined right from the start of contracts. We regret the fact that the Department seems to be adding in customer rights as an afterthought. We call on the Department to introduce a compulsory, monitored and enforceable Customer Charter as soon as possible. This should be based on the ERSA charter and contain details of how customers can complain. (Paragraph 70)

14. We were disappointed to hear of a range of poor service experienced by customers. The evidence we heard was anecdotal and we have not had the opportunity to establish whether such problems are widespread. We do not doubt the commitment of most providers to customer service, but the Department and providers must work harder to ensure problems are dealt with promptly. Customers on many programmes have no right to change provider, making it particularly important that they are given a good service. We note that many of the customers we spoke to were reluctant to complain. The Department and providers need to be proactive in order to identify, even serious, problems. (Paragraph 77)

15. Providers seem to agree that “zero hours” contracts should not have a place on employment programmes. However, such contracts are still eligible for outcome payments. This is unacceptable, and the Department should act quickly to ensure that “zero hours” contracts are not eligible for outcome payments. (Paragraph 78)

16. It is important that providers have a complaints system in place. However they should also have mechanisms for customer to provide feedback and comments and the Department should check that this takes place. Such information will not be comparable year on year, or between providers, or with Jobcentre Plus. We recommend that the Department carry out and publish a “Customer Survey” for customers on contracted provision, as they do for their own customers, to provide rigorous comparable data. (Paragraph 85)

17. Customers can also have an important role in letting the Department know what is going on on the ground. They may be able to identify instances of creaming and parking, or to identify the reasons for a provider’s poor outcomes. We agree that one way to do this would be through customers’ continuing relationship with Jobcentre Plus. However, Jobcentre Plus staff need to be advised to initiate these conversations with customers, and to be given the time to talk to customers. There also needs to be a mechanism for any problems to be fed back to both the provider and the Department. (Paragraph 86)

18. Customers on programmes need to know how to complain about the service they receive. They need to be able to lodge formal complaints which receive a response and to escalate that complaint to the Department if it is not resolved satisfactorily. We are not yet convinced of the need to set up an Ombudsman, but the Department should keep this under review. (Paragraph 91)
19. We have received evidence that Ofsted has improved its inspection of providers over recent years. However employment programmes tend to rely far more heavily on the relationship between staff and customers than academic or vocational education. Motivation and self-esteem can be more important than what the customer has actually learnt. The Department needs to monitor closely that what Ofsted identifies as quality actually relates to sustained job outcomes. (Paragraph 97)

20. We heard contradictory evidence about whether Ofsted was using specialist inspectors or moving to a more generic use of inspectors. Employment programmes are very different from much of the provision inspected by Ofsted and specialist inspectors should be used. (Paragraph 98)

Vulnerable Groups

21. We were disappointed, but not surprised, to hear of evidence of “parking” on Pathways. We also note the evidence that this was linked to pressure from managers after it emerged that previously agreed targets were unrealistic. As we noted in our previous report the targets for FND are very challenging. The Department needs to focus on ensuring that this pressure does not result in customers being parked. (Paragraph 104)

22. The Department has told us that it will try and prevent “parking” through the contract management system. However we believe that incentivising contractors to work with all customers is crucial. We again welcome the Department’s plan to pilot an accelerator model of payment and call on it to keep the Committee updated on their progress. (Paragraph 107)

23. We were very pleased to hear that under Flexible New Deal some prime contractors were offering higher outcome payments for the harder to help than they themselves receive from the Department. However the Work Capability Assessment is leading to more people with health problems on Jobseekers Allowance, and to a higher proportion of the severely disabled on Employment and Support Allowance. This will lead to providers needing to work with customers with more severe barriers than they had anticipated. The Department must work with providers to ensure appropriate support is provided for these customers. (Paragraph 115)

24. Providers have told us that for those with the greatest barriers to work Flexible New Deal funding is not appropriate. One provider told us that there are over half a million people who are not served by current DWP programmes. We call on the Department to investigate the issue, and to supply the Committee with its estimate of how many people are not served by current programmes, and details of the measures they are taking to ensure that FND and other programmes cover all those who need help. (Paragraph 119)

25. The Department has told us that it is confident that Flexible New Deal will meet the needs of all customers, including all those moving from Incapacity Benefit onto Jobseekers Allowance. We also note the range of measures it is taking to prevent parking. However, as the Department will not be collecting management information by impairment, it will not know whether these measures are working.
The characteristics of those claiming Jobseekers Allowance are changing and there are increasing numbers of people with health problems and disabilities receiving the benefit. The Department must recognise this and ensure that the evaluation of FND examines the impact on different impairment groups. In addition the contract management process must pay close attention to what services providers are offering people with disabilities. If problems emerge then monitoring by impairment should be introduced. (Paragraph 125)

26. We were concerned to hear that there may not be monitoring by impairment on Work Choice. This is unacceptable in a brand new programme specifically designed for severely disabled people. We call on the Department to introduce monitoring by impairment groups for the first two years; progress can then be reviewed. (Paragraph 126)

Sub-contractors

27. The New York City experience has shown that it is possible to run a commercially successful prime contractor making little or no use of sub-contractors. It has also seen the numbers of subcontractors decrease over time. The Department cannot rely on market pressure alone to ensure that sub-contractors remain involved. However the New York City experience has not demonstrated whether “prime only” contractors were able to provide a quality customer experience, or whether they have the same long-term outcomes as those who used subcontractors. (Paragraph 140)

28. New York City does not require prime contractors to use sub-contractors, and it does not see itself as having a “market stewardship” role. Despite this, when subcontractors are used it has been necessary for them to intervene in the relationships between prime contractors and subcontractors to ensure service delivery is not jeopardised. (Paragraph 141)

29. Practices have been reported to us, and reported in the press, whereby potential prime contractors are submitting tenders which subcontract to each other on a reciprocal basis, squeezing others out of the market. We were very disappointed that the Minister was not able to tell us that we had been mis-informed. The practices described to us should have been easily visible to the Department at the tendering stage. The Department must look not just at what percentage of work prime contractors are devolving to sub-contractors, but at who those subcontractors are. If a cartel is operating it should be broken up. (Paragraph 162)

30. The Department’s Code of Conduct says that “Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks.” In order to enforce this the Department must have a clear idea of what constitutes “fair”, we are not convinced that it does. The Department needs a clear idea of what constitutes a fair contract, and to make this known to providers. (Paragraph 163)

31. We were very concerned by the reports of subcontractors who have not been paid. We welcome the reassurances of the Department that it is willing to get involved in such cases. However, this does not seem to have happened in practice. The
Department needs to ensure that its staff are aware that they should intervene in such cases, and that subcontractors know who to contact. The Code of Conduct says that the Department will “ensure that delivery providers can have a ‘voice’ direct to DWP”. This is clearly not happening, the Department must ensure that it does. (Paragraph 164)

32. We welcome the Department’s stated policy of “active market stewardship”. However we are not seeing it happen in practice. The Department needs to clarify what constitutes fair treatment of subcontractors and ensure that prime contractors meet these standards. So far it is clear to us that the Department does not even have a clear idea of what constitutes fair treatment, and, despite the rhetoric, has shown no willingness to get involved with even the most serious cases. (Paragraph 165)

33. We do not know how widespread unfair treatment of subcontractors is, but neither does the Department. If such behaviour by prime contractors were to be widespread it would have the potential to put otherwise viable subcontractors out of business, leading to a loss of specialist knowledge in the market. However it could also jeopardise the delivery of contracts or lead to market failure, the Department must be alert to this risk. (Paragraph 169)

34. There are barriers to small providers tendering for contracts, particularly the need to submit tenders to multiple potential prime contractors. However in Glasgow we were very impressed with the measures small organizations had taken to work together and share expertise and resources. Every help needs to be offered to ensure that small providers can participate in the market; however the Department must ensure that the biggest barrier to potential subcontractors is not the attitude of prime contractors. (Paragraph 172)

35. We heard that providers who had run a service successfully for many years could lose work if they were too small to tender to be a prime contractor, and the prime contractor that won the contract then took the work in-house. This loss of local expertise and a proven service cannot be in the interest of customers. Tenders should be judged on their impact on existing services which are working well. (Paragraph 173)

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37. Decisions made by Merlin will have implications for the viability of individual subcontractors and for service delivery. Its decisions on what constitutes fair risk sharing will affect the ability of the market to cope with changes in on-flows. Potentially Merlin could make decisions which would result in a crucial
subcontractor, or large numbers of subcontractors, leaving the market or going out of business. It makes sense for the Department to make these decisions itself, allowing it to ensure the market develops in a way which is stable, robust and meets the needs of customers. (Paragraph 183)

38. The Draft Merlin Specifications provide for prime contractors to be graded as “Excellent”, “Compliant” or “Unsatisfactory”. We call on the Department to spell out what would be the consequences for a provider of receiving an “Unsatisfactory” grade. (Paragraph 184)
City Building is a company wholly owned by Glasgow Council. It is the fourth largest construction company in the country, the largest by number of employees. It pays the council between £3–£6 million “profit” a year. RSBi is a former blind workshop that now offers supported employment; it is part of City Building and gets a large proportion of its business from them. However only 22% of its profit comes from contracts with Glasgow Council. It receives money from WORKSTEP but no grants or other subsidies.

RSBi used to mainly manufacture windows, but once Glasgow Council had replaced most of its existing window stock in 2002 the work slowed. RSBi then moved into furniture and kitchens, originally it just assembled the kitchens, but it then realised that it was much cheaper to make them. It is now moving into building the timber frames that are needed to build new houses. RSBi are always looking for new opportunities. It is paid by the council to store furniture and personal effects, it is looking into storing paperwork. It is also looking at making conference and bathroom furniture.

City Building has 500 apprentices. 98% of its apprentices complete their apprenticeship (50–60% is the industry standard). This is despite the fact they are often “very hard to help”. It attributes the good retention rate to the wide range of help apprentices are given. City Building meets with parents before the apprenticeship starts; it also offers help with diet, health and so on. It intervenes very early if it sees any problems with attendance or punctuality.

RSBi employs blind people, people with other disabilities and people with none. When RSBi wants to move into a new area (e.g. upholstery) it needs to hire skilled craftsmen who may be neither disabled or disadvantaged. These craftsmen will then train up others who are.

RSBi sees itselfs as a business not a training course. It will help staff to move on if they want to, but its terms and conditions are so good that staff don’t want to find another job. Staff work 37.5 hour weeks, with extra payments for working nights when the factory is busy. They have a training suite and staff can undertake training courses in work time. Courses include literacy and numeracy and languages, as well as guitar playing and local history.

Local authorities are permitted not take the cheapest tender if there is a social benefit. RSBi believes much more use could be made of this. City Building gained one contract after agreeing to create 30 jobs for the hard to help. However, at the same time, supported workshops need to be proactive. RSBi was saved from closure in part after it won a contract to make furniture for asylum seekers. However, it was RSBi that identified this as something that it could do, and it approached the council with a business case. RSBi explained that the council could save the money that it was using to subsidise the workshop by giving it contracts instead. RSBi is talking to the Ministry of Defence about their
housing stock. Gaining Ministry of Defence contracts would allow it to hire more veterans.

**Glasgow Works**

- Glasgow Works (GW) is the name of the City Strategy in Glasgow. It has worked to bring agencies and private companies across Glasgow together with a focus on improving the employability of people in the city. Employment is now included in all social services “care assessments” and in contracts for contracted social work. GW also worked with schools to identify potential future NEETs (Not in Education Employment or Training). GW is focused on the particularly hard to help.
- GW had received £17.5 million in DWP funding, and had also received funding from other sources, such as the Fairer Scotland Fund.
- GW’s target was 3,000 job outcomes; it had achieved 2,750. Representatives told us that it had aimed for 20% job outcomes (based on the success rate of the Community Development Fund), and it was getting 9–14% after six quarters. It hoped that this would improve as some customers took a long time to help. GW have 15,000 active customers. Another 3,000 had started and then dropped out. All customers were volunteers. Other programmes (such as NDDP) had had better job outcomes but reached fewer people. 15,000 customers represented a large proportion of the hard to help in the city.
- GW offered payments for many more stages than DWP programmes (which tend to offer payments for finding someone a job, and then maintaining it for 13 and 26 weeks). Payments were made for doing initial work with a customer, early work progression, later work progression, moving someone into training/therapeutic help (if that was best for the customer), as well as the 3 DWP stages, plus a later payment for in-work progression.
- This payment structure allowed providers to claim for work with those very far from the labour market. GW encouraged providers to work with the very hard to help and felt that it had been successful. Its average IB claimant took 200 days to get into work.
- GW worked with 5 providers who were established in the area. They also worked with trusted organisations such as Rangers and Celtic Football Clubs.
- GW told us that there had been problems of overlap with the nationally contracted Pathways to Work. However these had all been resolved, GW now dealt with the hardest to help. There had not been problems with other nationally contracted programmes.
- GW told us it was actually easier to find people jobs in the private sector than the public. Many public sector organizations set unnecessarily high qualifications. The reasons for this were unclear. An NHS representative pointed out that in the NHS many qualifications requirements are set by external bodies. It was also suggested that public bodies are often keen to encourage the employment of disabled people by others, but not to employ them themselves.
• Representatives of GW said that they were seeing more money going to fewer organizations and that specialist contractors were missing out. GW had encouraged prime contractors to work with subcontractors. In their contracts with GW, prime contractors had agreed to spend a certain amount of money on helping subcontractors to participate. Prime Contractors had held workshops and meetings. GW felt that this had not worked; not enough work had been subcontracted. It did not know why this had happened, although it was determined to find out. It thought the money had all been spent as agreed. GW's prime contractors were all social enterprises and the contracts were awarded on the basis of developing the supply chain. However subcontractors did find it more difficult to tender than to apply for grants. Prime contractors had told GW that subcontractors did not understand clients, that they did not have auditable records and that they did not want to move to outfunding (in later meetings subcontractors denied all this). However GW felt all these issues were solvable; prime contractors just needed to spend the time and money to overcome them. Prime contractors could help with the paperwork for smaller organisations; they just needed to make the commitment. Representatives of Jobcentre Plus said they had also held meetings for sub-contractors but few had turned up.

Prime Contractors

• Some prime contractors we spoke to were critical of GW. They said that the plans for the City Strategy were drawn up without talking to prime contractors. As a result the plans were what the public bodies thought needed doing, rather than what actually needed doing.

• Prime contractors denied that GW was focused on the “hardest to help”. They said that GW was competing with nationally commissioned programmes for customers. Some of the help they offered was very similar to NDDP. Prime contractors also said that these problems seemed unique to GW, they were not found in other City Strategies. They also told us that there was a “shortage” of lone parent customers. NDLP had reached a very good proportion of potential customers in Glasgow, far more than in other cities. Prime contractors thought that GW was paying to duplicate national provision. However they accepted that GW had been more effective at reaching IB customers than national programmes. IB customers were hard to reach as historically they had not been encouraged to have contact with services. They said that very few customers were referred by prime contractors to GW.

• Prime contractors told us that GW’s job outcomes were not good. Prime contractors said they were getting 60% job outcomes (GW told us they get 9–14% and have a target of 20%).

• One prime contractor told us that fraud was driven by targets. However several prime contractors told us that it occurred when provider staff knew that a customer was in work but were not able to obtain all the proof DWP needed. In some cases employers had refused to complete paperwork. Provider staff had become frustrated and falsified the paperwork. Prime contractors believed that
This did not excuse such behaviour, but noted that DWP was not paying for work that had not been done. It was suggested that there should be lighter penalties in cases such as this where the fraud was not for financial gain.

- Prime contractors stressed that there were costs to being involved in DWP and GW contracts which small contractors could not bear. One prime contractor told us that it had had to spend £100,000 to meet FND IT security standards. It had also had to spend £30,000 on IT consultants in the last 6 months. This had not been budgeted for because it had not anticipated the problem. Another prime contractors said that research done for GW had suggested that a large number of IB customers were already in contact with possible subcontractors who would be ideally placed to help them. This prime contractor thought the research was flawed as it was based on a small and biased sample. One third of people asked said they wanted to work, however many of these had barriers which made it impossible, including severe mental health problems.

**Sub-contractors**

- Some subcontractors we met told us that there was a shortage of customers in Glasgow. They would start working with a customer and then submit the paperwork only to find that the customer was already registered with another provider. They then did not get paid for work which had been completed. This was a recurrent problem. While a customer could change provider, this was an administrative burden and took two months. We were told that providers did not refer customers to each other, even though there must be cases where this was in the customer’s best interest as there were no financial incentives for subcontractors to refer customers to other providers.

- We heard that providers with GW were only paid for one stage when a customer started the next one. Sometimes the next stage was with a different provider, and the customer did not wish to move on. In this case the provider did not get paid.

- Subcontractors complained that there was no up-front money from GW. One had had to fund the programme for three months before they got paid. It took time to get up to speed, to get the numbers of customers needed, and then to get them to a stage where they received outcome payments. Payments were quarterly and in arrears. There was no up-front money for administration or other costs.

- At the meeting subcontractors realised that some were being paid significantly less than others for seemingly the same work.

- Subcontractors felt that money was affecting the decisions that they were making about helping people. Some were worried about the focus on getting people into work when their organization believed that low paid jobs were not in the customer’s interest. One organization which provided help for the severely disabled had been asked to help able bodied people find work. It didn’t know why it had been asked to do something it knew nothing about.

- Some subcontractors felt that customers were not made aware of the consequences of their actions. A customer signing up with a GW prime
contractor would lose the rights to their NDLP adviser. They also lost their rights to certain elements of NDLP such as benefit roll-overs.

- Some subcontractors we met were paid by results, others were paid for each client they saw (mainly giving specialist debt or legal advice to customers whose main source of support was from another provider).
- There was a discussion about helping the severely disabled into work. It was felt that the high level of benefits they receive, particularly the Independent Living Fund; makes this difficult. Subcontractors felt that specialist support was required, but that often it was the benefits not the disability which was the main problem. It was felt that there was no route out of poverty for people with learning difficulties.

**Former subcontractors**

- The former subcontractors we met had found it difficult to submit tenders to multiple prime contractors, but most had managed to do so. However, submitting tenders, including the pre-qualification questionnaire, was a huge amount of work, and small providers were being squeezed out. One said that they had been “treated like dirt” by prime contractors. They had submitted eight expressions of interest, but only two prime contractors had responded. They didn’t know what use had been made of their intellectual property in bids.
- We heard several complaints about one prime contractor. One subcontractor told us that they had worked with them before on a verbal agreement, and had not been paid for work done.
- One subcontractor had delivered services successfully in an area for 7 years but had not been allowed to tender to be prime contractor because it was too small. It had applied to be a subcontractor, however the new prime contractor had taken the work in-house. The prime contractor was taking over the subcontractors premises and some of their staff but the subcontractor was losing money on the deal.
- Subcontractors told us that three organisations were closely linked to each other. Each bid as a prime contractor, listing the other two as subcontractors. The winning prime contractor would only deliver 40% of services themselves, but the rest would go to the other two organizations. Thus it did not matter who won the tender, and there would be no or very little work for any other organisations. Subcontractors argued that prime contractors should not be allowed to be subcontractors as well.
- Subcontractors strongly disagreed with the suggestion that their size meant that they could not fulfil contract requirements. One subcontractor told us that it had bought the required encryption software, and used to submit data from a range of voluntary organisations. Another subcontractor had passed a full EU audit. A third had previously been asked by DWP to do the administration for a DWP pilot. Larger subcontractors had provided administrative support for smaller ones. Several pointed out that they had passed the DWP accreditation process. They felt very strongly that prime contractors were using their size as an
excuse. One subcontractor said that their administration was done by professionals, while the prime contractor used customers to answer phones.

- Subcontractors told us that when they did win contracts they were treated poorly by prime contractors. Several said that they were only sent the very hard to help which made it hard to get outcome payments. One had successfully taken part in New Deal despite this; another had had to pull out of a contract because they were losing money. Subcontractors felt there should be tighter control to ensure subcontractors were treated as partners. However, they were sceptical about whether this would happen.

- Subcontractors felt that contracts affected the way that their organisations worked. Contracts were very outcome focused. There could be pressure to move people into unsustainable employment. Others felt that what their organization did did not fit into DWP programmes. Some offered all round help with housing, benefits, training, and social care. Others said that the prime contractors were very prescriptive and not giving them the opportunity to use their expertise.

- Subcontractors told that they were sceptical about the motivations of prime contractors. One organisation had moved into NDDP because they thought there was money in the contract, rather than because it had any experience with disabled people. Another said she had interviewed staff who worked for big contractors who felt there was too much focus on outcomes to allow them to help customers properly.

Customers

- All the customers we met who were with one particular provider were unhappy with the service they received. They told us they only received “job search” help which was delivered in groups; which customers felt was unhelpful (one customer said some one-to one help was available). Customers commented that the provider “wasn’t doing anything I don’t do myself” and that they were pressured to apply for jobs that they and their adviser agreed were unsuitable. Another customer said that he felt stigmatised. Staff were giving very basic advice about time-keeping and appropriate dress for work to highly qualified people who had worked their whole lives and found it insulting. One customer had been told that there was a limit to the number of hours he could volunteer, although the rules have now changed and there is no limit. Customers were surprised when they heard about the help and training people with providers were receiving. Some had not been aware that the service they were receiving was so limited.

- Customers were unhappy about the lack of flexibility in the current system. One had arranged an IT training course, which had then been delayed. He was told that he had to take part in Employment Zone, and was no longer eligible for the funding he needed for his course. Another had arranged training through the Prince’s Trust and voluntary work, and was again told he had to take part in Employment Zones instead. Customers also complained that if they had a Work Capability Assessment and were moved off Employment and Support Allowance,
they were forced to change provider, even if they had a good relationship or were in the middle of training. Others were unhappy that they had to be on JSA for six months before they were eligible for additional help. They felt that this was unfair and was a disincentive for them to take short term work or training as they would have to wait another six months for more help. One customer noted that after six months unemployment they felt stigmatised by employers, and it became harder to get work. Customers told us that they cannot switch Employment Zone provider for any reason.

- Other customers were very happy with the help they received. Some had only been with their provider a week or two but had already had a detailed interview, help with CVs and had start dates for training courses. One customer said that the provider had explained that he wasn’t very good at filling in application forms; he wished he had been told that before. One customer had been found a job within three days. He had previously been put off applying for jobs because he did not have the qualifications. However the provider had explained that in some cases these were not necessary. Another customer had asked to see his provider because they had successfully found him a job when he was last unemployed four years ago.

- Many customers felt the help they received from Jobcentre Plus was very limited, although some customers had good advisers. Customers complained of only getting “job search” help and rarely seeing their personal adviser. Most customers did not blame Jobcentre Plus staff who they said had far too little time.

- Customers said they had not been given information about Employment Zones by Jobcentre Plus before they started the programme. Customer said there had not been a discussion about which provider might be best for them.

- Customers felt that there was too much focus on CVs. Providers all told them that they could do the best ones, and they each ended up with several different CVs.

- Most customers were not aware of their provider’s complaints procedure. Most had not been asked for feedback, though many of the customers we met had only been on programmes a short time, so they may be asked for feedback at a later date.
Formal Minutes

Wednesday 3 March 2010

Members present:

Mr Terry Rooney, in the Chair

Miss Anne Begg
Mr Oliver Heald
John Howell

Tom Levitt
Chloe Smith

Draft Report, Management and Administration of Contracted Employment Programmes, proposed by the Chairman, brought up and read.

Ordered, That the Chairman’s draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 185 read and agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 14 October and 27 January.

[Adjourned till Wednesday 17 March at 9.15a.m.]
Witnesses

Wednesday 30 November 2009

Huw Davis, Chief Executive, British Association for Supported Employment, Rob Murdoch, Chair, Employment Related Services Association (ERSA) and Executive Director, A4e, and Matthew Lester, Vice Chair, ERSA and Director of Operations, The Papworth Trust.

Wednesday 16 December 2009

Rt Hon Jim Knight MP, Minister of State for Employment and Welfare Reform, and Alan Cave, Delivery Director, Employment Group, Department for Work and Pensions.

List of written evidence

1 Papworth Trust (EP 01) Ev 34
2 Wise Group (EP 02) Ev 35
3 Royal National Institute of Blind People and Action for Blind People (EP 03) Ev 42
4 Shaw Trust (EP 04) Ev 46
5 Working Links (EP 05) Ev 49
6 Public and Commercial Services Union (PCS) (EP 06) Ev 53
7 A4e (EP 07) Ev 57
8 City Strategy Pathfinders Learning Network (EP 08) Ev 65
9 National Autistic Society (EP 10) Ev 68
10 Reed in Partnership (EP 11) Ev 71
11 Association of Learning Providers (ALP) (EP 12) Ev 73
12 Employment Related Services Association (ERSA) (EP 13) Ev 79
14 Ingeus UK (EP 15) Ev 92
15 British Association for Supported Employment (BASE) (EP 16) Ev 95
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Oral evidence

Taken before the Work and Pensions Committee
on Monday 30 November 2009

Members present:
Mr Terry Rooney, in the Chair
Miss Anne Begg  Tom Levitt
Harry Cohen  Chloe Smith
Mrs Joan Humble  Jenny Willott

Witnesses: Mr Huw Davies, Chief Executive, British Association for Supported Employment, Mr Rob Murdoch, Chair, Employment Related Service Association (ERSA) and Executive Director, A4e, and Mr Matthew Lester, Vice Chair, ERSA and Director of Operations, The Papworth Trust, gave evidence:

Q1 Chairman: Good afternoon and welcome to our first evidence session on management and administration of contracted employment programmes. Welcome to our witnesses and old faces, if you pardon the expression. You are probably not surprised that we have received a lot of evidence for this inquiry, much of which said that the recent difficulties and fraud cases that have been identified and the fact that they were discovered showed that the system worked. Notwithstanding that, we also got lots of evidence about how improvements had been made to systems and practice. If everything was fine and worked, why did we need to change it?

Mr Lester: We do not believe there has been a huge problem with fraud and statistics would seem to suggest that. There clearly have been issues that need to be addressed. We think the main improvement the Department for Work and Pensions has made have been around making the system work better. The system has worked but it has been cumbersome, labour intensive and extremely paper intensive. We see most of the improvements have been around making the same or improved assurance with less cost.

Q2 Chairman: We have had evidence of improvements that contractors have made themselves to their own processes and systems not what the department has done.

Mr Murdoch: There has been intense media speculation in relation to A4e and a case in Hull which highlighted some of the issues in relation to fraud and audit. In that particular case, which we have documented in our written response, we had two members of our teams there who colluded with a recruitment agency to falsify claims. As you know, currently under the Prime Contractor New Deal a claim is made when a job is expected to last for a period of 13 weeks. That is the expectation of the provider and the employer to honestly believe that. In this case there was falsification of signatures and documentation from our members of staff. The DWP RAD team subsequently investigated and found there were 21 cases where false claims had been made by those employees. We worked very closely with RAD over a long period of that investigation and subsequently paid back £12,500. The results of our investigations from that working with DWP led to a number of investments on our behalf in staff and systems to make sure that the fraud that was perpetrated in the Hull case could not happen again and that included appointing a head of risk. We undertook an independent evaluation through Deloittes of all our systems. We carried out a thorough review of all our top recruiters and their performance. We also looked at our incentive systems, from individual incentives moving to team incentives, and we now complete 100% checks with employers of every job outcome. In answer to your question, the seriousness of fraud deflects away from ERSA members’ passion and commitment to developing services that are best for that customer and their needs. As an industry we take it of the utmost seriousness that we look into any gaps in our audit process to make sure that we improve upon them. This is going to be an ongoing thing working with all different types of contracts. For example, Flexible New Deal has a different outcome job stability system from Prime Contractor New Deal so there are a range of contracts that we must make sure we have confidence to audit across the piece. That is why we will continue to invest and have no complacency about those systems.

Q3 Chairman: We did not want to focus on any individual instance but what lessons have come out of that. Looking at the evidence that was submitted it would seem that those companies that were in the news earlier this year now have better systems than those that were not or is it the case that ERSA are driving an industry-wide standard or that individual companies have reacted in the wrong way?

Mr Murdoch: The short answer to that is in reference to the spotlight put on A4e we had to react. It would be impossible for us to say that other organisations, who are ERSA members, systems were not adequate in the first place. However, from ERSA’s perspective it has put into sharp highlight our need to make sure that we provide value for money and clear audit processes for the spending of public money.

Mr Davies: Most of our members are involved specifically around the Work Step and Work Preparation contracts and I am not aware of any
Chairman: ...have one or two instances but other than that customer confidence is more driven by whether or not when they turn up and say “I need help finding a job” they get help to find a job. That is usually the measure most customers use and overwhelming that is positive.

Chairman: Has there been any instance of a contractor having a contract terminated because of irregularities or other things?

Mr Lester: I am not aware of any.

Mr Murdoch: I am not aware of any. There are instances where there have been issues with some service provision where there is discussion with Jobcentre Plus and DWP that they have put in an action plan whereby that action plan clearly states the steps needed to be taken to improve the service. We are not aware of any contracts being stopped because of non-compliance.

Chairman: Has it simply been financial penalties or repaying of money?

Mr Murdoch: As far as I am aware in relation to paper work, it is completely repayment of those monies. A good example of that, and I can talk from A4e’s perspective, when our services in our Manchester office did not come up to standard due to a high increase of expected volumes and lack of adequate resources in the office there, what we did was work very closely with the Department of Work and Pensions and Jobcentre Plus over a short period to make sure that we put all of those areas into place. There is, I believe, an effective feedback mechanism so that providers can be given the opportunity to improve their services if they do not meet the standards expected.

Q7 Mrs Humble: Can I continue with this theme of investigation where fraud has taken place? Obviously the Risk Assurance Division undertakes the inquiry and we have been told that they do not publish their reports. You have been explaining the detail of what happened in Hull. Would you be happy for a report to be made public?

Mr Murdoch: In short the answer is yes. When that investigation is taking place, our hands are tied in order to publish that information exactly what has gone on that could lead to some negative publicity for our industry. I would urge that those reports are fully published and transparent to the public to see what happened in any of those instances. I would welcome that.

Q8 Mrs Humble: You two gentlemen also agree with that. Given that the DWP is bringing in some new standards to ensure that companies detect fraud, the obvious question there is were they too lax before. As the Chair said earlier, we have had quite a lot of submissions from companies saying that their standards exceed the DWP standards so should the DWP raise its act and have tougher standards?

Mr Lester: I think the DWP standards are fairly robust. The level of detail, as Huw said, is actually close to extraordinary at times. There is a bunch of evidence around that not least if we look at the recent Pathways contract. There were a number of providers who were saying there is a lot of work we have done, people have got jobs but for very, very minor breaches of process, not that somebody has not got the job, a good example would be the system required the same signature from the employer at 13 weeks. Unsurprisingly some employers do not have that. The DWP did an off-benefit check for those as a one-off exercise and a substantial amount of money, £800,000, was then paid which were job outcomes that could not previously be claimed. I think that is pretty good evidence that the system has been erring on the side of not paying and erring on the side of making sure there is value for taxpayers. It has been very positive so far, however there is room for improvement and the process is unwieldy and cumbersome.

Mr Davies: My feeling is, having gone through it in managing a service myself, it is quite a robust system and there is every incentive in there to make sure that providers get it right. Any provider with a decent internal quality assurance system should be able to pick up on individual mistakes or errors which is often what might happen rather than it being a deliberate attempt to defraud. An internal system should be able to pick up on that. Providers are getting much better on those internal quality assurance systems and I would be wary about an overt bureaucracy that places more of a burden on employers. When we think about customers, we need to be thinking about employers as customers in these processes as well. I certainly hear feedback from employers about the level of paperwork that is
involved around placing somebody into sustainable jobs being quite heavy. Interestingly most of that is probably around health and safety and risk assessment and some of the individual development planning but I have never come across an employer who is not willing to complete the paperwork around the job outcome which is the least of the paperwork in a way. Interestingly, Work Step works on the 26 week expected job outcome rather than 13 weeks. That has never been issue for us but I would be wary about imposing too much additional burden on employers.

Q9 Mrs Humble: DWP’s standards include a whistleblower’s charter and a ban on perverse incentives for staff. In a way those two are linked together and I wonder what mechanisms you have in place to ensure that if a member of staff sees something happening that should not be happening how you encourage them to come forward. After all, it is your company and the companies who you two represent whose good name is at risk here. How do you see the operation of a whistleblower’s charter? How do you define perverse incentives: a ban on bonuses or do you just leave it to subcontractors to decide?

Mr Murdoch: Obviously following the instance that some of our members would be aware of, I can speak specifically in relation to A4e in relation to our grievance procedure and the whistleblowing procedure. Part of the analysis by Deloittes showed that all of our staff wanted it to be more central and easier to access so we reissued that looking at a simple accessible grievance procedure. We also worked with the charity Public Concern at Work who deal independently with any of those grievances that get escalated through to that. In relation to perverse incentives, we need to take some criticism in relation to simply incentives that we had that were perverse incentives, we need to take some criticism in relation to simply incentives that we had that were perverse incentives, if the commissioning is wrong, there is potential for the fraud that was perpetrated. Part of our ongoing analysis is to make sure we no longer have any individual bonuses linked performance which may be a background to the fraud that was perpetrated. Ofsted are going to inspect providers? Do you know how often Ofsted are going to inspect? They have given some details but as well as how often do you think that Ofsted has the expertise to inspect the work that you are doing? A lot of the work that you do is to do with motivation and building up self-esteem and so it is not easily tick-boxable and there will be some subjective judgment there. Do you think Ofsted has people who are properly trained to do the job?

Mr Lester: The answer to the first question is in terms of frequency it depends on the programme. Work Step has historically been every three years, however if you did not do very well they would come back and see you more frequently. I understand some of the later programmes, such as Flexible New Deal, are four years. However, the contract is a shorter time and clearly it would need to happen within the life the contract. The frequency at the moment depends upon the programme. As for the competence of Ofsted inspectors, I work for the Papworth Trust as director of operations. We are a voluntary sector supporting disabled people in work and lots of other things. In 2003 we were inspected by Ofsted and there were quite interesting discussions at that time because they were looking at learners. We were paid to get people into work and they thought we were paid to teach people. Whilst inevitably there is some learning that goes on the way, there was a contradiction there. When we were re-inspected in 2006 that had improved substantially but I still there is a contradiction. There needs to be a more work and outcome focus activity within Ofsted. They still use the language of learners and they seem reluctant to change. I do not think that is a competence issue but a focus issue.

Mr Murdoch: Some of ERSA members’ customers, for example if they have not got a house to live at, it is going to be difficult for them to get ready for their CV. How do you measure a customer’s willingness to engage to look back at engaging with work? A lot of our customers have other issues like housing and skills; it could be a whole range of things. A narrow definition of the quality of the learning outcome is not wholly appropriate. That being said, Ofsted have worked quite closely with the Department of Work and Pensions to better understand that the quality of that customer journey is the important thing. I believe they are looking at a review to
publish their findings in January about how they can better understand the customer journey in relation to jobs.

Q11 Mrs Humble: How do they measure the relationship that your staff are building up? That is a difficult one. We, as members of the Select Committee, go into job centres and private providers and talk to the people who are doing the work with the individuals and we talk to the individuals themselves. We come away with an idea about whether or not the individual is being motivated and is going to get a job but a lot of that is actually then trying to judge how the worker built up the relationship with the individual and whether or not what we are being told is genuine and the individual is properly motivated. It is not easy to evaluate the sort of relationship building that is a key part of the work that you do.

Mr Davies: But it is possible to invite Ofsted inspectors to events prior to the inspection period. For the few months leading up to an inspection you would invite them in. For instance, we would organise focus groups where customers of the service and their families were involved. I am talking here about people with significant disabilities. They have ample opportunity to speak to individual customers and to employers and co-workers of people. I think they get a fairly well rounded picture particularly with smaller contracts. I do take your point that for larger contracts that might not be as easy to do or you worry about how representative it is. I would echo Matthew's point that in the early days of inspection when it was the Adult Learning Inspectorate there were a lot of concerns about the new inspection regime. They had been delivering services for decades without ever having been inspected and suddenly there was a very formal inspection procedure that they had to get their heads around and the ALI in those days had to get their head around. There was not an easy translation of some of the education terms and there seemed to be an overemphasis on looking at supporting people around literacy and numeracy whereas for some of those people with more significant learning disabilities that was not a priority; the priority was getting gainful employment and contributing to what we would call BASE and the ALI and some of that has carried through to Ofsted recently in terms of the generic duties that inspectors are increasingly being put into so that there is a wide range of provision that inspectors may have to go into and look at. There is an element here that if you employ specialists in that area you are more likely to get a better picture of what the provision is like.

Q12 Mrs Humble: Does it not also go back to the frequency issue that surely there should be visits that are frequent enough for Ofsted to track the progress of at least one cohort of individuals and if the visits are sporadic and snapshot are they going to have an opportunity to do that?

Mr Davies: My understanding is that is the direction they are moving in and I welcome that. Most providers who care about quality and have the systems in place would welcome inspectors coming in at any time. The whole point of quality assurance is that it is not a surprise and shock when the inspectors come in and they are welcome with minimal notice.

Chloe Smith: Before I start I must say I previously worked at Deloittes who have been mentioned a couple of times although I, to the best of my knowledge, had nothing to do with that piece of work at any time.

Chairman: I am sure it would have been better if you had!

Q13 Chloe Smith: No comment. I am going to go on to focus on necessity to provide evidence and picking up something that has already been mentioned on the paper-based system. The Committee over time has heard a lot of concerns around the paper-based system. To what extent is it a necessary evil to have paper in relation to the other systems in place?

Mr Lester: It is necessary to have evidence. Whether evidence is paper or some other means I would challenge and whether the paper systems are appropriate I would challenge. If I can give an example, we deliver Work Step. We populate a DWP website with data, print off that data, copy that four times and send it to four people to prove we have done it then populate the same data into a DWP spreadsheet, print that, copy to the same four people and then of course we have our own system we want to populate and the systems do not talk. There has got to be a better way of doing that so anything we can do to improve that. The evidence needs to be there, no-one has any problem with that, but collected in a way which is cost effective. All of that cost is money that is not helping us deliver any outcomes for people helping them get into work because it is coming up the supply chain.

Mr Murdoch: In relation to prime contracting New Deal, each customer has 136 pieces of paper. Looking at last year in relation to Prime Contractor New Deal for ourselves not including our subcontractors, that included 6 million to 7 million pieces of individual paper that needs to be tracked. It is clear we need to have a robust mechanism to show we are demonstrating best value for the taxpayer, however it does detract from investment in our staff. If you look at the experience that customers have, and the quality is key, if we can take away what ERSA members have estimated is around 10% of costs that were put into some of those audit and paper tracking, if we can take that cost and make sure we invest it in front line delivery of those services to make sure when you go in the offices you meet our staff and that is shown throughout the sector, it would be very much welcome. If we can look to off-benefit checks but at the same time look at in work for the LMS system, for example for Jobcentre Plus, we would very welcome a way of looking at a more effective way of tracking. Also the paper does have a bit of a time lag. If we can get it in real time, it could show us how far customer groups
Mr Davies: I do not think it is a big issue the collecting outcome, the paperwork. It is obviously going to be a bigger issue for larger providers with masses of customers but certainly from my experience it is not a big issue at all. At the moment it is required for inspection and they have to see that paperwork.

Q14 Chloe Smith: Just to probe a little the off-benefit check, DWP data I understand suggests that only half of people who move off benefits move into work. What does that imply for the use of off-benefit checks? Is there any experience you could shed light on?

Mr Murdoch: That data comes from all people who have started jobs rather than people who get to employment programmes at 12 months. I am not completely sure about the relevance of that for the delivery of ERSA members who have been unemployed for a long period of time which is who we work with. By itself off-benefit checks are not enough and need to be supplemented with work that tracks the person in employment so we can make sure that it is not simply somebody who comes into a tough regime, makes a very scary person and decides they are going to sign-off. It is important that we have off-benefit checks as well as working with the tracking of people in employment to see what that customer journey is. We would say yes, we have reservations by itself.

Q15 Chloe Smith: Matthew, you mentioned the quadruplicate system that is needed. How has that come about? Why are there so many points? Is this the result of something being hastily created?

Mr Lester: Work Step has not been hastily created but it has been created over a number of years. If we look at FND where there is a practice of a provider referral and payments system, we hope that will be an upfront service fee. Is there enough focus, in your opinion, on checking that clients get what they are entitled to in those cases?

Mr Murdoch: I would echo what Huw said. In my opinion, on checking that clients get what they are entitled to in those cases?

Q17 Chloe Smith: If there is a problem it is a problem of consistency rather than a problem of integrity of the data link. You are saying it should be on the same system.

Mr Lester: That would be my opinion.

Q18 Chloe Smith: On the question of the upfront service fee part, there is naturally lots of focus on verifying job outcomes but many programmes also feature an upfront service fee. Is there enough focus, in your opinion, on checking that clients get what they are entitled to in those cases?

Mr Murdoch: I would echo what Huw said. In my opinion, on checking that clients get what they are entitled to in those cases?

Mr Davies: I think we have to be very careful that we do not duplicate some of the systems that Ofsted uses. The one thing I really like about Ofsted is it comes in looking at the customer experience and it will talk to people throughout the process to get a clear idea of what is happening with them. There is a danger that the department wants to duplicate some of the systems that Ofsted already has and uses. To me that approach from Ofsted is very good. It should not throw up any surprises for a decent provider who should be already asking their customers what it is like and how can we do it better and to some extent that is the purpose of self-assessment for a provider. I would be wary of parallel systems coming in from different agencies. We have to do everything we can to streamline so providers can concentrate on doing what they do best which is getting people into jobs.

Mr Murdoch: I would echo what Huw said. In relation to the 20% level, in many ways for example Flexible New Deal is a commitment of anticipation of volumes from the Department for Work and Pensions so it can allow the provider to make sure that they invest in these services and anticipate those volumes coming through that contract. It is important, especially for a lot of ERSA members, that there is money provided for the set up and establishment of those services. If you had wholly outcome payments, it might be that those with the deepest pockets could set up those services without any of that service fee. I think it is important that we understand the service fee is important for the investment of some of our members in order start up and deliver those services especially given the time lag between payment and outcomes.

Mr Lester: If I understand the question, our concern is as the subcontractor we do not have access to PRaP so there is a separate system between us and our prime contractors. We currently work with three prime contractors who all have different systems. They are all different and all of them talk in different ways to PRaP. If I was re-inventing it from the start, if we input the stuff to PRaP then that would be better. I know there is a whole bunch of issues to overcome but it just seems to contain some inefficiencies where you are double handling information. I would not design it like that but it has not been my problem.
Mr Lester: That means that the DWP has a more vibrant market from which to choose. If it was only providers with deep pockets, there would be fewer providers for the DWP to choose and that would not be good for customers.

Q19 Chairman: I understand what you have all said but there is an awful lot of checking and monitoring on the outcome payment but there is no checking and monitoring on the service fee.

Mr Murdoch: I see what you are saying. In relation to the handover, for example in Flexible New Deal, given the stages in the Jobcentre Plus journey before they get to stage 4 or Flexible New Deal, it would be very difficult for a customer who did not already have a national insurance number, that regularly had a relationship with Jobcentre Plus, that had written down their action plan, the warm handover that we are working on with Jobcentre Plus it would be extremely difficult or be extreme collusion within Jobcentre Plus to have a fictitious customer coming into Flexible New Deal.

Q20 Chairman: I am not asking about the fictitious customer. You get anticipated volume and you get a service fee based on that but there is no check on how you spend that service fee.

Mr Lester: That is absolutely correct because the concept of Flexible New Deal is a black box approach so within reason—and I would have a reserve comment which I will come back to—the process that providers follow to ensure the outcome is delivered is entirely the choice of the provider. That flexibility is aimed at encouraging innovation and to make sure if provider A does it one way and provider B does it another way then hopefully everyone will learn from that, DWP in particular, and help improve future systems and future processes. The reservation I have is that the overlay to this black box is a thing called provider guidance and whilst it is not contractual it is very thick and very detailed and down to how you answer the phone. There is a question about whether or not those things add value to the customer journey. The focus upon the process at the moment is all about the job outcome and making sure that the customer’s experience is good. I think Ofsted does some of that. DWP are starting to do some work in terms of surveying what the customers feel. “How was it for you.” Whilst there are dangers with that because many people who come to us seeking support are not in a good place in their lives and often resent being there because they are mandated to be there, it is right to try and capture customers’ views because that customer experience is really important. If they are treated properly and they are getting a job outcome then surely that is the right outcome for everybody.

Chairman: I think we are on different tracks but someone is going to ask about the customer experience.

Q21 Miss Begg: Can I apologise for being late but the plane had a flat tyre? The answer to how long does it take to change a tyre on an aircraft is one and a half hours it would appear. I watched the Channel 4 Benefit Busters programmes with interest and it would appear that the customer experience can vary depending on what programme they are on and what benefit they have come from and who the provider of that experience is. Picking up on what the Chairman just asked, do you think there is enough weight given to customer experience in the contracts you have with DWP? You hinted that was perhaps coming in but you did not give us enough detail of what it means in reality and what do you as providers provide anyway because you think it is good practice as opposed to what is required of you from the DWP?

Mr Lester: There has been much improvement so the current programme Flexible New Deal actively says the customer’s views are an important thing to collect and the customer’s views will be an important thing to measure performance. I use the term measure loosely there. We think that is a huge improvement. Past programmes did not have that focus and that again is an improvement we welcome. Could there be more done? Undoubtedly. If I may take my ERSA hat off and put my Papworth hat on, as a voluntary sector organisation there is all always more we can do to make sure we listen to our customers and are driven by what our customers want. I know, and most other ERSA members feel that, what that is again is dependent on the programme and what you are trying to measure. If you want to inform what you do in the programme by your customers, that is one thing. If you want to say how was it for you, there may be a whole bunch of different questions you ask and you will get different answers depending on whether they have a job or not.

Q22 Miss Begg: As an ex-teacher and used to doing assessments, part of the assessment process is not just measuring performance but actually to inform the learning outcomes. Surely that must be the most important side from the provider’s point of view, how you can drive up standards by listening to customer’s experience.

Mr Murdoch: I completely agree. Recently ERSA members have launched a customer promise looking at making sure we put customers’ views as central. In reference to the Benefit Busters programme, that did feature in two of the programmes people with whom I work. It has been a great series in getting debate out in the open about some of the legacy systems. For Example, Prime Contractor New Deal is a 13 week mandated programme that asks customers to come at a set time with a very prescribed series of interventions which DWP asks providers to give. It is a serious struggle to deal with current volumes and current expectations of customers, whereas we would find it much easier under Flexible New Deal to make sure that the design of processes, to listen to the customers is put at the heart of what we do. It is much easier under Flexible New Deal than it is to do in relation to Prime Contractor New Deal where it is prescribed and fixed. Some of our frustration is the
speed of how we can move towards more customer-centred programmes that actually listen to what their concerns are rather than deliver a set programme.

Q23 Miss Begg: Under Flexible New deal do you think the provider is going to be better trained? Facilities for customers seem to vary widely from the three programmes involved. One was very successful, the lone parents, but others were a disaster. Is there more in Flexible New Deal that would allow you to have a more pleasant environment for the client group to come into? Also the fact that some providers are using zero hour contracts as a job outcome, why are zero hour contracts anywhere near in the system? How on earth can you offer someone who is on benefit a zero hour contract and expect them to take any kind of job? You are not going to risk your benefit for a zero hour contract at all.

Mr Murdoch: Dealing with the zero hour contracts, I do not think they have a place within these contracts. I believe that temporary work sometimes is an important stepping stone in relation to sustained jobs but at no stage should zero hour contracts be part of that programme. We are aware that many employers are moving to zero hour contracts but it is important as an industry that we work with employers to make sure that is not the kind of work we are looking for. I believe, as you pointed out, that Flexible New Deal on the longer contract period allows us to invest in specialist providers who know what they are doing so allowing special providers to invest in staff, the premises and the interventions that really work which will not happen, I do not believe, under Flexible New Deal. If you think about somebody who is furthest from the job market, a 13 week prescribed programme will actually stop some providers investing in services to get that person back into work in 13 weeks. If the course of that customer journey implies a 25 or 30 week programme around whatever their barriers are, a 13 week programme would mean it is not worth starting. A longer programme of 12 months that has flexibility about whatever the customer needs in order to achieve a sustainable job is definitely the way forward.

Mr Davies: I think it is in any provider’s interest to deliver a good customer experience because nothing goes around like gossip about a poor provider and not to go there. It makes business sense to deliver a good service like any other provider in any other sector. It is something that is specifically looked at by Ofsted but I am not sure that is what DWP are buying. I think they are buying job outcomes rather than good customer experience. It does raise the issue of what is the provision about. Is it about jobs first or people first?

Q24 Miss Begg: Surely both. You can have a great experience but do not get a job.

Mr Davies: I agree but I have concerns around some of the commissioning services particularly for those people we see as part of the PSA 16 group, those people with significant disabilities. How the new commissioned programmes will impact on those people has never seriously been looked at. If you look at the equality impact assessments for instance, they are very brief and the process of impact assessment seems to be more retrospective than proactive. If you are going to look at the customer journey and making sure the provision is appropriate and relevant to customers then those assessments need to be far more proactive. I am not clear that we are gathering good quality data about the experience of certain disability groups within provisions such as people who are using secondary mental health services for people with learning disabilities, care leavers and so on. I do not think we are collecting that data at all. If we seriously want to look at the active provision on not just the individual but individual disability and customer groups, we need to get better at collecting that information. Maybe some providers might not be happy about the extra level of detail.

Q25 Miss Begg: To what extent do customers feel empowered to complain or actually are they too frightened to complain? I suspect if you have mental health problems you are more diffident in complaining. For some who have been institutionalised because they have been on benefits for a long time actually complaining is an anathema because they are frightened they will lose their benefits if they are stroppy or create a fuss and therefore you are not getting any proper feedback or genuine feedback from customers. Is that a problem for you?

Mr Davies: That is a difficulty. Personally I would like to see some sort of ombudsman for customers of back to work services.

Q26 Miss Begg: A customer charter.

Mr Davies: It is pot luck whether you have a provider with a culture that encourages complaining and questioning because they want to improve on things, they want to know what it is really like, and others who discourage it. It is very difficult and some sort of independent place to make a complaint we would very much welcome.

Q27 Miss Begg: If an individual was to go back to Jobcentre Plus where there is a professional adviser who they have built up a relationship with and was to complain about any of their organisations, would you know that? Would Jobcentre Plus come back and say to you “We have had this complaint. Can you investigate it?” and so take it one away from the individual? It is quite hard for individuals in those circumstances to actually complain and be encouraged to complain.

Mr Davies: It is more likely to be informal than formal.

Mr Murdoch: It is a range as well in our experience. Jobcentre Plus raises at our regular meetings any complaints they have had from customers. We look at the issues, we carry out an analysis of the complaint in relation to what it was, was it about our staff, was it about our facilities, and we make sure we follow that up with Jobcentre Plus or within our
internal investigation. Your point is very valid. One of the issues that ERSA and other organisations who started this journey in raising the customer promise about care as the starting point was we need to make sure that we raise expectations of all customers about the service that they should be expecting within our industry. It is a very important first step that we start to look at the right service, the right treatment, understanding that customer journey and start to establish those benchmarks.

Q28 Miss Begg: Can I quantify what we are talking about? How many complaints are there for the different size of organisations that you represent? What proportion of the people who come through your doors would actually complain about the service?

Mr Murdoch: This year looking at the last seven months we have had 70 complaints so roughly about 10 a month. Of those, 62% come from Private Contractor New Deal and around 40% from our Pathways programmes. If we divide that looking at where the percentage is of what those complaints are, we have quite a wide variety of different things: 36% in relation to staff conduct; quality of support, 21%; programme requirement, the mandation of coming onto the programme, 13%. What we do is we keep statistics and figures about all the complaints and what is the referral and response to those. It is key for us responding and understanding customer complaints and how we respond to that improves our service. For us that is a central part of what we do.

Q29 Miss Begg: Is there any you have not managed to resolve?

Mr Murdoch: In most cases there is resolution but there are going to be customers, because of the mandation to our programmes, who are not happy with some of the solutions we have provided.

Q30 Miss Begg: Have you any advice that you can give us as a Committee that you think if it was put in place would actually help you improve the customer experience and make it better, help you do your job better, make sure they have a better experience and ultimately that they have a profitable experience and get a job at the end of the process?

Mr Murdoch: Until we demonstrate the clear relationship between the client and the member of staff where you had a good member of staff all sorts of things seem possible but when you did not you did not.

Q31 Miss Begg: Do you ever discipline staff or get rid of staff because of their attitude to clients?

Mr Lester: The Papworth Trust do certainly.

Q32 Jenny Willott: That links very nicely onto the questions I have about the customer charter. Can I ask what role DWP had with ERSA in drawing up the customer charter and what role customers had?

Mr Murdoch: It was very important from ERSA’s perspective that when we were looking at a customer charter we built on DWP’s customer charter and Jobcentre Plus. We looked at the same themes that came from the DWP customer charter, took that within our membership and looked at the design and how it was relevant and we made it a single continuous simple accessible promise. One of the things we do not want to do is have a really complex hard to understand process. It must build on what DWP and Jobcentre Plus promise to the customer. We looked at the language, knocked it back and forth and worked closely with DWP for the ERSA launch of our customer promise.

Q33 Jenny Willott: Were they involved in helping to draft it or were you looking at materials that DWP had already produced from their customer charter and basing it on that?

Mr Murdoch: We worked very closely to draft it.

Q34 Jenny Willott: How were customers involved?

Mr Murdoch: Customers were involved in DWP’s process but each different member of ERSA carries out customer feedback focus groups, different systems, so what we did is make sure we fed that into the customer charter.

Q35 Jenny Willott: Will the charter only apply to ERSA members?

Mr Davies: BASE is pleased to support the charter. It is worth remembering that what we are looking at here is a standard across the industry as a minimum and many providers will want to build on that and have additional systems and ways of communicating with customers. It is a very minimum. BASE was not so much involved in the drafting of it, we have come to it later in the day but certainly we would support all those sentiments.

Q36 Jenny Willott: Do you expect to see it effectively be the charter that everybody signs up to that provides these sorts of services?
Mr Murdoch: Absolutely. It was important for us, and that was our launch, of putting in a consensus of a minimum standard of customer care across our industry. It is voluntary but it is not just ERSA members. As an on-organisation we want to work with all organisations, whether ERSA members or not, to flag the importance of customer service to drive higher the quality of services in our industry. It is open to all.

Q37 Jenny Willott: Is it enforceable?

Mr Murdoch: It is not enforceable at this stage in relation to a framework such as Ofsted. The next step is for us working with DWP and Jobcentre Plus providers to look at that kite mark and how we follow up to make sure that we can be certain of those minimum standards. Customer feedback, the mechanisms for capturing that and how we work through that will be key.

Q38 Jenny Willott: We have had concerns raised with us that customers do not know enough about their rights. We had a comment that posters on a wall do not of themselves facilitate positive behaviour so it is how it will have an impact in practice. There were particular concerns raised with us about the awareness of the minimum standards amongst those who are most likely to be falling through the gaps and whether they know what they should be able to expect and what they can complain about if there is a problem. Should customers have a list of things like types of training, help or support they might receive so they can see what they should be getting and know when to complain if they are not receiving it or is that too prescriptive?

Mr Lester: I will attempt to answer that because I can talk about what Papworth does and what we do with three prime providers. Pretty much all of us do what we can to communicate with customers when they come to the door about what they might expect. It comes in different guises so sometimes providers produce a leaflet, some produce a brochure, some ask us to do it but we try to make it as clear as possible to people what they might expect and what they need to do. For example, in Papworth we have a comments, compliments and complaints leaflet and it gets used for comments, compliments and complaints. We want to make sure there is an openness so that people realise they have a choice about what happens because that is all part of increasing their motivation and their self-confidence. It is about that empowerment to say “I am in control of what is happening with my life and what I need to do to help get a job and if this provider does not do it I need to do something and make a noise about it.” We think it is a good thing to make a noise about it.

Q39 Jenny Willott: The information that is given out in leaflets is it basically the customer charter or is it more detailed than that? The issue is whether or not people have an understanding, particularly those who are the hardest to help and most likely to get dumped whether they have access to what they can actually expect.

Mr Murdoch: It has to be a cultural change; it cannot just be a poster on the wall and leaflets but staff training and understanding of exactly what that customer promise means to all members of staff. We tell our customers to go over what their entitlements are so it has to be a key part of the culture of provision. I do have some concerns when you talk about a long prescriptive list of what the possible interventions are. I try to imagine it in relation to our customers and the paperwork and the choices available. The first start has to be sitting down with a customer and looking at all their issues, skills, if it is motivation, if it is personal or health. From that starting point each different provider might have a different approach to it but you have to talk about what that customer journey is like for that individual. It is about complete personalisation of that service. There has to be some subjectivity in it but everyone needs to be aware within the culture of primes and their partners that there is a minimum standard of customer care that we need to aspire to. That is key; personalisation. A prescribed list itself I do not think would be meaningful.

Mr Davies: About half of our members do not deliver any DWP contracted programme but are delivering supported employment from local funding. Many of those who do deliver DWP programmes use the programmes to deliver supported employment in the same way. Supported employment is very, very personalised. It is about talking to that person and understanding their situation. You are talking relatively low volumes of people and a really detailed getting to know that person and involving them in developing their own action plans and everything else. You cannot really have a list of everything that you might be entitled to otherwise we get into this ticking off: “I have had that. No, I have not had that. When is that coming?”

The individual development plan or action plan is much more relevant and it is about trying to involve people as much as possible in the development of that plan and the formulation of it. When people come to services, you are talking through what there should be in the way of how it is going to work, what the expectations are of the customer as well of the service and what the customer can expect from the service and how to complain. I do suspect we can make it easier for people to complain and maybe sort this out a bit more. Again, when I managed an individual service we used to have the ability to do on-line complaints, to be able to complain by email. It can be difficult sometimes with larger companies. Are you complaining to the local service or are you complaining to the company? You want to have some confidence that your complaint is going to be taken seriously. Maybe there are ways of having some sort of centralised complaints line that is a bit independent, of a branch and different ways of working. I do think ultimately that if some sort of internal resolution of a complaint is impossible then there has to be some sort of ombudsman who can step in and look at this because that gives a bit of teeth and a bit of weight.

Q40 Jenny Willott: I would like to expand the issues around vulnerable groups in particular. If someone was going to cost considerably more than the
outcome payment to move them into work, would the three organisations that you work for spend the extra money and what is the approach of the different companies in ERSA members?

**Mr Davies:** I am representing more the potential subcontract point of view here and have real concerns in this area. We have programmes being commissioned with fixed budgets. There is bidding on name your outcomes and your prices. I do not think always that the successful bids have been realistic and achievable in the past. There are real dangers that vulnerable groups are increasingly going to lose out on some of the DWP-funded provision and not be able to access it. To come directly to your point, if you are commissioning a service and commissioning employment support for people with disability, firstly you need to understand what is the likely cost to be able to judge whether the tenders you get are realistic or not. I am not sure that is clearly understood yet actually what is a reasonable cost for helping somebody with significant disability to move from a day centre or support from a mental health community team to being in a job. I do not think that is clearly understood and that worries me whilst we go ahead with quite major commissioning of new programmes.

**Mr Lester:** We are absolutely certain that the employment programmes that exist are good for the people they are designed to serve. We are equally certain there are a whole bunch of people who do not get served by those programmes and that worries us the same way as Huw has just described. There are people who do not get the right support. That is a statement of fact; it is not a criticism of those programmes that exist because those programmes exist work well. However, within the programmes look at Flexible New Deal because it is current. I know a number of providers who deliberately and explicitly stream the customers. Words used are different and the disability sector gets worried about labels so we deliberately keep loose words but they will identify customers in different levels of support and they pay for that accordingly. In the Papworth example, Papworth are paid by a couple of our prime contractors at a rate which is greater than they receive from DWP because Papworth is only dealing with those people who are further from the labour market than others. That works well within Flexible New Deal but I totally support Huw’s comment that there are a whole bunch of people who cannot get the support. Some of those people that Huw has described are moving from day centres into more acute impairments to work. There is a gap there.

**Q42 Jenny Willott:** Has to be yes or is yes?

**Mr Murdoch:** It is yes in relation to Flexible New Deal. You need to understand that within the programme that FND was designed for there will be customers that you pay far more than the average as well as others you invest less in. That is the nature of the prime contractor within that so picking partners where you invest in their services to move those people into sustainable jobs. However, in Huw’s point the commissioning is important because in Pathways to Work, as we have seen, some of the customers that are coming through were actually wholly inappropriate in relation to Pathways to Work. They had some health conditions and were not ready to enter the world of work but had been referred by Jobcentre Plus into the Pathways to Work programmes. Funding is key. Flexible New Deal is suitable for a customer group within that flexibility to deliver that. Those people who have more long-term conditions that are furthest away from the labour market we must look at how we fund the interventions to help those people enter sustainable jobs and that is key. The funding for Flexible New Deal will not be appropriate for those with higher barriers to cross.

**Mr Lester:** Papworth has been doing some work on that group. We call them the “mind the gap” group because they do not get properly served by DWP and they do not always get properly served by some of the other agencies. We reckon there are between half and one million people in that position many of whom will be receiving support through local authority-type contracts but many will be receiving no support. That is a not a criticism of the DWP programmes that exists, however there are a whole bunch of people who need some support there and that is a concern for us.

**Q43 Jenny Willott:** Going back to the issue of the relationship between prime and subcontractors, many of those that are harder to help get passed on to subcontractors particularly if they have specialist disabilities so you have RNIB, RNID, National Autistic Society and so on doing specific work in those areas. How do prime contractors ensure that subcontractors who are doing that specialist work actually have enough money to provide the services that they need, particularly when we have had quite a few concerns raised about the levels of management fees and things like that that are top sliced by prime contractors? What evidence do you have about how much is being passed on and how affordable that is for subcontractors?

**Mr Murdoch:** It is very difficult from an ERSA perspective to give any answer especially as Flexible New Deal only started in October. We do not have the data yet. I can speak from an A4e perspective. We need to work on a regular basis and have the discussion exactly about those payments. We do have a set timetable in relation to payments being made in relation to outcomes. It is very early. What we would look to is making sure that any of the conditions that the prime contractor themselves receive in relation to service fee and payment that job outcome is reflected in the agreement they have with
subcontractors. I must say that it is very early in the process to see what the feedback is. It is positive at the moment but we have to look at the volumes. One of the biggest issues we have at the moment in relation to the Flexible New Deal contracts, especially in London, is the volumes are not what was anticipated. Actually what we have set up is arrangements to flow down our service fee up front to our partners but actually volumes are at a much lower level than ever was anticipated. We are going to come to a stage in six months when we look at the review where we have passed that service fee up front to partners but actually there is only 10% of the anticipated flow to come. For us that is a bigger issue at the moment than some of the issues you have mentioned there.

Q44 Jenny Willott: I am not sure that applies to subcontractors. 
Mr Murdoch: I think it does apply to subcontractors. Actually the agreements made were looking at the volumes in relation to the target groups they were working in and the service fees we have arranged and the whole thing we have arranged in relation to that intervention. I think it does have a very practical impact.

Q45 Jenny Willott: The evidence we have had is they seem to be more concerned about not being able to afford the support that they need to provide. 
Mr Davies: Stop me when you have had enough on this one. The replacement of Work Step and Work Preparation and the bringing in of the Work Choice programme next year to replace those two will see 400 plus contracts go down to 28 supply chains which will be linked to geographical areas. The contracts are going to get bigger with more people but within the same budget so something has to give. One of the reasons given for bringing in the new programme was a feeling that it was not delivering value for money and there was not enough progression to independent working. We have taken a bit of a sledge hammer to crack a nut rather than looking at the core difficulties. We have just gone “Right, let us grab it and start again with a new programme.” That is raising all sorts of issues for subcontractors who are suddenly not in control of any of this. They are being given very short timescales by and large. I have to say some primes are considerably better than others in managing relationships with potential subcontractors. Generally they are getting very short timescales to submit a lot of information to several potential prime providers all asking in different formats for different types of information. Often these are small voluntary sector organisations without an infrastructure so it is a real disruption to their activity to get this sort of information together and to submit bids to be part of the supply chain of the new programme. There are real issues about management fees. 30% seems to be about the standard. I have concerns that the actual funding that is left to deliver programmes is going down and down particularly as DWP seems to be transferring some of the quality assurance requirements onto prime providers rather than fulfilling that themselves. There is a whole passing on and it feels at times like the subcontractor is at the end of this taking all the risk with no guarantee of customers flows and working on much less money than they are used to. There were complaints before that we did not have the right people on the programmes and we needed more people with significant disabilities on these programmes and I am afraid this approach, this standard commissioning strategy approach based on price-based tendering, is going to lead to more and more cherry picking. I think that people with the more significant disabilities are going to struggle to get onto this programme and will be looking more and more to local authorities for support. Meanwhile there is growing evidence that local authorities are going to disinvest in the specialist provision that they provide because they are looking at Work Choices taking over that whole process. When it is not a strategy requirement of local authorities and times are hard financially, why should they invest in that specialist support. There is a real risk that those most excluded are about to become more excluded.

Q46 Jenny Willott: Given those concerns and given the acceptance by some prime contractors and by DWP that there are special cost needs particularly for those most vulnerable groups, have any of your members been offered more generous contracts under FND to provide very specialist help from particularly hard to reach groups? 
Mr Davies: Not under FND. We would be looking at either Pathways to Work or the Work Choice contracts and it is very topical because the tenders have only just gone in. People with significant disabilities are unlikely to come through FND at the moment. Certainly the experience is that for most people they will be asked to do what they have been doing for £1,000 a year less.

Q47 Jenny Willott: The final question I have is about monitoring of FND. DWP has said it is going to monitor the effect of the FND contracts on different groups and different disabilities. Assuming they do that and find some of the problems you have highlighted are proven to be the case, is it going to be too late to do anything since the contracts will be in place and running by then or are you optimistic something might be done? 
Mr Davies: We will see if it is going to be done first. I have heard talk that it may be resisted as micro-management of providers. Certainly BASE will push very hard, along with some of the national charities, to make sure there is some in-depth evaluation of the Work Choice programme to make sure that specific disability groups are not missing out, people with significant mental health needs and with moderate to severe learning disabilities and so on. There is a concern that we are going to capture that data in enough detail to be able to tell.
Mr Murdoch: From ERSA’s perspective, capturing that data and responding to that is going to be key. It is our aim to make sure we do not leave any customers behind. If that evidence is there, we must
make sure that we change the system, we change the funding and we change the delivery because taking evidence, getting that feedback and doing something about it is key to the success of Flexible New Deal and gathering that data needs to be a core aim for DWP to give us feedback. That is the stewardship role. If there are people being referred to FND who are not getting the service they deserve, are they appropriately referred? Why is the budget not available? Those questions need to be answered. If necessary, then prime providers need to change the system, change what they are doing to provide better service. That is key to the success of a programme like Flexible New Deal. Flexible New Deal is not for everyone. Let us not confuse some of the issues that Huw raised about customer groups who should not be destined for Flexible New Deal.

Q48 Jenny Willott: From ERSA’s perspective do you think prime providers would be prepared to take on board quite significant changes to the way they fund?

Mr Lester: The answer to that is yes. We were very keen to push for more appropriate contract terms and conditions. The old contract terms were universally considered not good enough by everybody. There has been a lot of negotiation to make sure those contract terms are more appropriate. There has been a lot of compromise but one of the important things within those terms is a means of changing the contract to reflect changed circumstances and having that agreed by all the parties. No-one had any problems with that as a concept. The wording got interesting but no-one had a problem with it as a concept because we accept that a contract that lasts for a long period of time may well have changes within it because circumstances will change and there needs to be the facility to use those changes.

Q49 Tom Levitt: I am going to say with the issue of subcontractors in a more general sense rather than just looking at vulnerable people. In the Pathways to Work pilots the providers had to provide lists of subcontractors. What we have now found and moved on a little bit is a lot of those relationships have now broken down. Is that part of the process of reaching equilibrium in the system or is it because there is bad faith involved in the way those issues that Huw raised about customer groups who should not be destined for Flexible New Deal.

Mr Davies: There was some bad faith and the DWP have learnt from that. For instance on the tendering of Work Choice, now primes have to list the subcontractors they have agreed to work with and they will be held to that. There is some learning from previous experience of tendering rounds but it does feel like each round there is a new learning happening. I guess we will get there in the end. You are right that some subcontractors pulled out. I know of two subcontractors that withdrew particularly because they had not been paid at all by the prime provider for a period and that was the reason they withdrew. The difficulty is then resolving disputes like that. You may be coming onto the Code of Conduct at some point but it is getting increasingly difficult for subcontractors to raise these issues with the DWP because the DWP is turning around and saying “We do not talk to you. We only talk to primes” so where do they go.

Mr Lester: I agree with what Huw has said. There is no doubt Pathways was really the first contract to use the prime/sub model with any significance and there was learning to be done. Part of that learning is with Flexible New Deal and Work Choice it is more overtly articulated who the subcontractors might be. Part of the other learning is from the provider community as well. Both primes and subs had to learn to make sure they could deliver what they said and to make sure the terms they negotiated were fair and reasonable. All of those things all parties have had to learn from and making sure that learning is embedded in the current contracts. I am certainly seeing it in the bid opportunities that Papworth have been involved in that things have changed and the way people approach it is far more clear and robust. Is it perfect? No. There will be improvements to be made but it was better than in the Pathways.

Mr Murdoch: Small organisations make a significant commitment in time and energy to be part of a bid. Some of the findings were that prime contractors who enlisted organisations who were put in, in good faith that they would be a key part of that delivery, were not honoured after that contract was awarded. Flexible New Deal learnt from those lessons to make sure that there was not a beauty contest with an organisation naming everyone but when they got the contract not working with those organisations. That has been a key development. The lessons learnt from the Pathways to Work programme was that performance was under close scrutiny as part of that first commissioning process. There were a number of organisations who entered in good faith, speaking from A4e’s perspective, of delivering those outputs which received service fees up front but then found they could not deliver the outcomes that were promised. In a very practical way there were issues there about the deliverability of those promises. Actually it was part of the primes issue to make sure that we improved due diligence in the financial and delivery perspective of all those organisations we work with and also raised the issue please be cautious about what you think you can deliver and the promises you make in this process. As a whole, most of those relationships are still healthy but there have been partnerships across Pathways to Work that have not lasted the test of time and that has been a natural learning process.

Q50 Tom Levitt: A couple of times we mentioned the service fee and the passing or not of the service fee and Huw has made reference to an example of where no money was passed on but it is not just the service fee. We heard of a company which DWP afforded a 40% on-flow tolerance to but they only passed a 15% tolerance to their subcontractors. They were expecting higher standards from their subcontractors than they were contracting to undertake themselves as the prime contractor. Is that an acceptable approach to risk sharing? Should that be happening?
**Mr Davies:** No. Subcontractors are between a rock and a hard place at the moment. They are absolutely at the mercy of some of the prime providers and offers are made pretty much on a take it or leave it basis. It is often up to potential subcontractors to go on the website of the prime provider and find out. Subcontractors have to be very proactive if they want a part of the new system because what they are finding is by and large the primes are not coming to them. I think they are in a very difficult position. Do they say “Let us try to stay in this business but at reduce costs.” I do not think the DWP has faced a transfer of 14 or 15 thousand participants between the existing and the new programme before and there are specific issues about how you transfer an existing case load of people on a programme to a new one that are being learnt at the moment. Life is very, very difficult and my concern is that we had a lot of public sector delivery of Work Step as a programme and the likelihood is that a good number of those public service deliverers will not remain involved in the new programme because they do not think it is viable and as a public sector organisation they cannot get involved in that. Then you have smaller voluntary sector organisations and I mean very small. Sometimes they employ eight or nine people but they are well known locally and they are in with the local employers and they have a valuable role potentially but they do not have an infrastructure to manage all of these processes. There is a real danger sometimes that they will just jump at any deal that is offered and that it will not be financially viable. I am not sure what level of risk assessment has gone on looking at the possibility of market failure among subcontractors. I think that is potentially quite a big issue as we go on.

**Mr Murdoch:** ERSA demands a diverse effective supply chain that provides best possible service for the customer. It is important, therefore, that DWP get involved in some of these issues around service fee and how it is passed on to the partner. They need to get involved and look at the issues in our market. Without that we could lose some fantastic organisations that maybe do not have some of the financial nous, the scars of the commercial world, in order to survive. It is important DWP in its role of stewardship looks into these issues.

**Q51 Tom Levitt:** Should the DWP actually see the contracts that the contractors have with their subcontractors and perhaps should those contracts be published?

**Mr Lester:** The answer is maybe; it depends on what we want. There is a new commissioning strategy that is aiming to deliver far more efficient outcomes in terms of back to work provision. Will it? The only way DWP will know is to pay close attention to where the value is being added within the supply chain. Whether or not DWP need to micro-manage this direction of travel at the moment will be smaller organisations are. I am not sure it is of value to publish them. However for DWP to be aware where the value is added, who is doing what within the supply chain and is it working I think is crucial to test whether the commissioning strategy is working or not. Most subcontractors are very clear about self-determination. If they want to exist, they have to keep doing stuff to make sure they do exist and we will negotiate our terms accordingly. However, DWP need to be clear who is adding what in that process.

**Q52 Tom Levitt:** About 40% of all sub-contractors are third sector organisations. What trends do we expect in that number in the future and is 40% a fair reflection of who does what?

**Mr Davies:** There is a recent report from DWP about the experience in New York about supply chain and prime provider models. Some of the evidence coming out of that was if you want to maintain a diverse provider base, including third sector organisations, then you have to have active stewardship of the market and left to itself you will see a decreasing number of providers and a growing number of large providers dominating the market and reduced customer choice. If we are going to have this active stewardship. I am not sure what it looks like and what it means. I have not seen much evidence of a will to bring in this active stewardship of the market. We are looking at Merlin now as a standard for supply chain management but that is going to be independent of DWP. We have seen DWP hand over some of the requirements for contract management of the supply chain and quality assurance within there so they are not hands on with that. There is a lot of looking but I am not sure there is much doing coming up from DWP in terms of how hands on it gets with managing this market but it seriously has to if it is going to maintain a diverse and viable provider base. All the evidence is that they are going “We do not really want to.” They are clearly saying to subcontractors “We do not want to talk to you.” I do not understand that. I am not sure where that comes from. I would say to them if you are talking at PSA groups, people with significant disability, just get out of the market. Just give the money to local authorities because they have got the responsibility for hitting targets, for publishing the data and the returns on PSA 16. Give them the money and the resources to be able to get on with it on a local basis.

**Mr Lester:** ERSA membership is public, private and third voluntary sector. ERSA’s view is what matters is what works not the structure of the organisation. However, it is recognised that voluntary sector organisations tend to have some local and innovative activities that are discrete to that sector. However, it is about delivery and we should not confuse doing good with performing well. It is important from ERSA’s perspective that the market is vibrant and that market includes providers from all types but only providers who are able to deliver. That is the important thing. Where do I think that would be in the future? I think the inevitable direction of travel at the moment will be smaller organisations are. I am not sure it is of value to publish them. However for DWP to be aware where the value is added, who is doing what within the supply chain and is it working I think is crucial to test whether the commissioning strategy is working or not. Most subcontractors are very clear about self-determination. If they want to exist, they have to keep doing stuff to make sure they do exist and we will negotiate our terms accordingly. However, DWP need to be clear who is adding what in that process.

**Q52 Tom Levitt:** About 40% of all sub-contractors are third sector organisations. What trends do we expect in that number in the future and is 40% a fair reflection of who does what?
ERSA perspective. Will it actually mean the Welfare to Work system works better? I do not know and I think that is the question we need to answer. If you lose some of that vibrancy, I have an instinct that it will not work as well. I think DWP needs to do stuff to keep that vibrancy in the market place.

Q53 Tom Levitt: Do you think that pressure on small organisations is going to produce successful consortia working?

Mr Lester: My personal view is I suspect it will be a few successful consortia. I suspect there will be more larger organisations.

Q54 Tom Levitt: Working Links have suggested to us that Merlin was only devised because the Code of Conduct was “toothless” and did not do enough to raise standards across the supply chain.

Mr Davies: BASE was not involved in the development of the Code of Conduct and as far as I am aware there were not any subcontractors involved in the development of the Code of Conduct. There is widespread scepticism about that Code of Conduct unless it is a legal part of the contracts and enforceable. It is full of words like “should” and “expect” rather than “will” and “must”. It is largely seen as a bit toothless and irrelevant. When you have subcontractors who have not been paid by a primary provider and they are going to DWP to try and get some resolution and are being told “We do not talk to you” by their contract manager of the supply chain and are then told you are going to have to take it up with DWP but nobody can tell them where in DWP to take it up or who to go to. I think there is widespread scepticism that it is not going to make much difference.

Q55 Tom Levitt: Merlin comes onto the scene in 2011. Is that closing the stable door after the horse has bolted?

Mr Davies: Hopefully it can help with supply chain work and collaboration after 2011.

Q56 Tom Levitt: What if the supply chain is established?

Mr Davies: I am not quite clear where the current Code of Conduct as it stands now applies, whether it applies to Pathways to Work or whether it is just new programmes that come in that from that point. There is not a great deal of clarity from a subcontractor point of view about whether they are covered by it or not covered by it and actually how they access it and what it will mean and whether there are any sanctions at the end of it. It feels a bit remote. When you go to events where there are a large number of providers and they are asked who is aware of the Code of Conduct and who is aware of Merlin, there are very few small providers aware of any of it.

Mr Murdoch: From ERSA’s perspective we worked with DWP to try to shape the Code of Conduct as it progressed. I think the Code of Conduct is a very good basis on which to build. What has happened is that the follow through and that stewardship role and how it is seen to work and how it works in reality there is a big vacuum there. Providers need to know that the Code of Conduct is being adhered to. Providers need to know that their best practice is being shared. It needs partnership between the providers and the DWP. One of the biggest concerns we have as well in relation to some of the Merlin process is it does seem to be bit too bureaucratic and imposed from DWP from afar. What we need is something in the middle of that, something that is accessible where providers can see the Code of Conduct, there is a mechanism for appeals about contracts and all of the issues around the Code of Conduct that they are listened to and acted upon and that it is a real living Code of Conduct that is implemented in our working lives and the contracts we have. At the moment we do not see how it is operating.

Q57 Tom Levitt: You are saying there is a trend towards centralisation as shown through Merlin and that is going to change relationships between Jobcentre Plus and providers.

Mr Murdoch: There is another issue about centralisation rather than Code of Conduct. You can have local issues in relation to the Code of Conduct very well. The issues of the Code of Conduct in performance are not just central issues from DWP. The concern we have is in relation to the Merlin programme some of the outlines of which we have seen seem to be very heavy handed and dictated from the Department of Work and Pensions about what is best. We need real partnership: what providers are experiencing on the ground, what the subcontractors are experiencing on the ground, what works and what does not work and how were they treated in the contract. That feedback mechanism needs to be much better at working together.

Q58 Tom Levitt: That is the other side of the coin. If you get a local partnership that leads to it being successfully highly dependent on the relationship between local providers and local Jobcentre Plus, you are giving more opportunities to fail than if you had a guaranteed centralised structure.

Mr Murdoch: I do not think they are mutually exclusive.

Mr Lester: If I was to look at Merlin, it is a well intended means of creating some teeth but it feels like a sledge hammer to crack a nut. There are other ways to do it. What we have seen so far is it is too bureaucratic and it is adding bureaucracy rather than adding necessarily the efficiencies that are needed. Some of the comfort that Huw described is necessary. There are organisations who will need somewhere to go and some means of dealing with it and Merlin done more efficiently could provide that well.

Mr Davies: There is almost a danger that if you cannot resolve a dispute between the primary and subcontractor then you have to go straight to the ombudsmen. I am pleased there is an ombudsman.
I am pleased there is going to be some independent arbitration but it looks like you have to go directly to that. At some point there is a middle point where the DWP contract managers should come in and help to resolve things. As Rob says, there is a halfway point on this.

**Mr Murdoch:** All organisations ask is to look at how we negotiate through that conflict.

**Q59 Chairman:** There seems to be an underlying theme throughout all these things that it is a learning curve but does anybody ever stop and learn?

**Mr Lester:** My view is I would much rather be on a learning curve than standing still going nowhere. At the moment it is a learning curve which overall is moving in the right direction. I can see a number of examples where things have been incorporated where learning has been embodied in what happens next. Is it fast enough? It never feels fast enough but it is a bit like an oil tanker: it takes a bit of time to turn but it is turning and going the right way.

**Mr Murdoch:** We are going through an unprecedented change in terms of commissioning which ERSA has promoted in relation to commissioning of better services. Clearly the pace of that change is very challenging for all of us. We must make sure we do not lose the best providers within our market under that heavy pace of change. Some of the interventions that we are dealing with need to focus around Code of Conduct and they need to, within this very speedy commissioning environment, make sure they look after some of those principles.

**Mr Davies:** It does feel like change for change’s sake sometimes. Sometimes rather than throw everything out and start again we are better looking at why things have not worked the first time and what can we do to improve quality and outcomes and a bit more investment on that side rather than scraping and building from scratch.

**Chairman:** Some of us will be taking a very close interest at seeing how Work Choice develops. Thank you very much.
Wednesday 16 December 2009

Members present:
Mr Terry Rooney, in the Chair
Harry Cohen
Mr Oliver Heald
John Howell
Mrs Joan Humble

Tom Levitt
Greg Mulholland
Chloe Smith
Jenny Willott

Witnesses: Rt Hon Jim Knight MP, Minister of State for Employment and Welfare Reform, and Mr Alan Cave, Delivery Director, Employment Group, Department for Work and Pensions, gave evidence.

Q60 Chairman: Good morning. Welcome to your first appearance at this Select Committee. Belatedly, congratulations on your appointment. We have received reports of various malpractices, shall we say, but we have received evidence saying that because those cases were all uncovered it proved the system works. We have also had evidence that both yourselves and contractors have put in lots of improvements. If everything is working, why did everybody need to make the changes?
Jim Knight: There were some changes that were coming through anyway. In terms of the new assurance division, that was set up last year. It came into effect in October, I think. All the work necessary to get that established was underway before any of the media stories that happened over the summer. As we continue to look into our procedures in respect of fraud and some of the concerns that there are around, and as we expand and ramp up the amount of contracted employment programmes that we have, we have also added in the internal compliance team which effectively looks at our own procedures within DWP and how well the contract management division and the assurance side are working with contractors to ensure that is robust. It is very lean team. I think it is about five staff. That has just got up and running. That is as a result of that work we have done, just to assure ourselves and obviously to be able to assure ourselves that we have systems that are sufficiently robust for people to remain confident.

Q61 Chairman: We understand you had 78 investigations of suspected fraud? How did you become aware of those? Was it through whistleblowers or through your own inquiries?
Jim Knight: The majority of those came from our processes. There was then a number that came through whistleblowing from our own staff, and then literally a handful, one or two, that came through other routes, the police or the benefit fraud helpline. Those have been ones and twos, as opposed to the vast majority coming through our processes or through our own staff whistleblowing.

Q62 Chairman: Did any come from the contractors telling you themselves?
Jim Knight: Alan has the detailed figures on that. I am sorry, I did not introduce Alan. I assumed you all know Alan.

Mr Cave: Alan Cave, Delivery Director for DWP. One or two came from either staff of providers or former staff of providers. Of the 78 cases that you referred to, Chairman, 66 came from DWP sources one way or another.

Q63 Chairman: There was not a single instance where the contractors themselves came to you and said, “We’ve got a problem.”
Mr Cave: There has been one case that I know of in the past where that has happened, but typically what has happened is a case has arisen, an investigation has started, and at that stage we have always found very good co-operation between the providers and our own investigators.
Jim Knight: Within the stats that both Alan and I are looking at of the 78, I have a figure of 12 that were from external allegation, which includes staff and ex staff of providers’ customers and other providers.

Q64 Chairman: I am anxious to establish that the companies themselves did not come forward and say, “We’ve found this.” It all came effectively from whistleblowers externally or your own internal resources and efforts.
Mr Cave: That is the majority. That is probably, in part, a reflection of the fact that all of these cases that were investigated took the form of one or two, if you like, rogue individuals whose activities were not often known about by the provider at the time that the alleged incidents took place. That may be one of the factors there.

Q65 Chairman: You have said that 66 out of the 78 were discovered in-house in DWP. If you were able to discover them through your own processes, does that not suggest laxness on the part of the contractors and their management if they were unable to discover what was going on in their own operation?
Jim Knight: I can understand and sympathise where you are coming from with the question and Alan might be able to help, but within the 66, half of them, 33, were from our financial appraisal and from monitoring our contract teams. Those are people who have a very close relationship with contractors. Yes, we have recorded that as coming through our teams, but these are people who work really closely with the people on the ground. It may be that the contractor has told them that there is an issue that they are looking at; our people then report it to us
and it is logged as coming through our system, but I cannot give you any confidence about exactly how that 33 might break down or indeed the 66 might break down, but I think it would be a bit too black and white to say the contractors have not disclosed anything to us.

**Mr Cave:** The 78 is the number of allegations. Of those allegations, in 43 cases it was found that there was not a case to answer, so that only 35 led to further investigation. Of those 35, it was found that 16 were matters of contract compliance or mistaken completion of documentation. Really, of that 78 we are talking of 16 where there was evidence that documents were or might have been deliberately falsified. That is just to put that 78 figure in context. It is fair to say that, where there was an investigation and where there was found to be a real problem, that was found to be a symptom of poor controls in the case of that provider, and the provider in each case acknowledged that and there was subsequent work to strengthen those controls.

**Q66 Chairman:** That takes me on to my next point. We are currently spending about £1 billion with private contractors, which is a significant sum of public money, particularly in the current circumstances, and I am more worried now than I was ten minutes ago about just what levels of controls and management there is. There is in many of these contracts a service fee—sometimes 20%, sometimes 30%, sometimes more. What exactly do you expect the contractors to use that service fee for?

**Mr Cave:** Typically it is the cost of establishing infrastructure and the service provision which is going to be provided to those customers. It is changing, of course, because we are moving from a relatively high service fee system to a higher outcome-funded contract.

**Q67 Chairman:** Presumably part of that infrastructure is contract compliance.

**Mr Cave:** Absolutely.

**Q68 Chairman:** What monitoring does the Department do on how these service fees are getting spent?

**Mr Cave:** The structure for this is, first, that we specify what that compliance and control system should be in our contracts, so the principles that each provider needs to demonstrate they are adhering to, and we then use our provider assurance team, previously FAM (the finance appraisal monitoring teams), who look at each contractor provider to ensure that they have the systems and processes in place which enable them to discharge that contractual duty. That is a full assurance process which covers all of our providers. If any weakness in the provider systems is identified as part of that, depending upon the extent of that weakness it will either be then taken through the contract management system, so that there is then an ongoing engagement between the contract manager and the provider to ensure that that weakness is rectified, or if the controls were found to be seriously deficient, we would not give an assurance to our provider and they would not be able to operate. That has not happened, but that is how the system would pick that up.

**Jim Knight:** We are obviously in a process now of reducing the number of contractor relationships that we have and improving our contract management capability within the Department. We have independently been regarded as having quite possibly the best in Whitehall now in terms of managing those contracts, so the system that Alan has described is working at better capacity, managing fewer contracts, which should give some assurance, particularly when we get to a steady state with around 200 contracts and about 50 suppliers. Those will be relationships that are managed very carefully, where we not only have a good relationship through our relationship managers but we also have some external capacity within the Department to be able to look at those relationships in a more independent way.

**Q69 Chairman:** We hope what you say turns out to be true, but there is then an issue of the supply chain and subcontractors and quality assurance there.

**Jim Knight:** Sure.

**Q70 Chairman:** To get back to the service fee element, does the Department do any sort of check, audit or whatever that that fee, which can be a significant amount of money, is spent on what it is meant to be spent on, and not just on the broad bit but on the whole gamut?

**Mr Cave:** There is a real limit to this because our commissioning strategy—and we discussed this at the hearings which you had last year, Chairman—is very deliberately moving away from a prescriptive description of what each provider should do in terms of processes and activities with the customers towards a focus more on outcomes. We do not have a model that says, “For £x amount of service fee you should proportionate it in the following way.” That is not the model which we use. We do say, “Here are the conditions contractually which you must meet in order to be able to operate.”

**Q71 Chairman:** Who decided on the figure of 20% for FND?

**Jim Knight:** In the end, Ministers made those decisions and are responsible for them. You will be familiar that there is a certain degree of turnover ministerially within the Department—so it wasn’t me, guv!

**Q72 Chairman:** Internally, and then based on advice signed off by Ministers, there was a decision that 20% of the contract would be by service fee. There must have been some expectation of how that would be spent. If it is not spent on the service fee element, what claw back do you have on it? If they do a rubbish set up and pocket 17% of that 20% service fee, do you have any come back on them?

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1 *Note by witness:* The 16 cases quoted is an update on the 14 cases quoted in the DWP memorandum.
Mr Cave: Take FND, for each of the FND bids which we received we required a lot of very detailed information: what their delivery model is going to be, how they are going to organise themselves, where the premises are going to be, what staffing they are going to have, what activities they initially propose to undertake with those customers. Within the context of the black box, there is a balance to be struck here. We then monitor that through our contract management process. We ensure that the provider is giving a good service to customers and we have a number of ways of checking through that, but, to go back to my earlier point, that is not quite the same as saying that for each pound of service fee we prescribe it should be apportioned in a particular way.

Q73 Chairman: I am not bothered about the individual pound; I am bothered about the total sum. It just seems to me, and you are confirming it with everything you say, there is no check on the service fee element, any of it.

Jim Knight: My view on this, with all due respect, is that that is a distraction. We have to monitor the contract and monitor the specifications in the contract are being delivered, that they have signed up to the code of conduct and that it is being adhered to. The reward system, which includes a proportion of service fee and a proportion of payment by results, is the entirety of the reward fee, and the ratios of service fee to the other elements is to some extent about risk more than it is about which elements of the contract are covered by the service fee and which are covered by payment by results. In my own mind, that is not how it works. It is about where you park the risk. That is how it is reflected in 20:80 or 40:60.

Q74 Chairman: Part of how you control the risk is that the service fee element delivers what it is supposed to deliver, because it includes contract compliance, it includes management systems—which were painfully lacking in a number of cases previously. On FND it is about £35 million. It is not an insignificant sum. It might be tiny against the £120 billion benefit budget, but it is not an insignificant sum.

Mr Cave: To go back to the point I was trying to make earlier, it is not that we take no notice of what providers do with the funding which they gain from the service fee, but the way that manifests itself is through checking on whether they are delivering a quality service, whether they are undertaking active interventions with our customers, whether customers are experiencing that as a helpful service and whether it is leading to outcomes. As the Minister said, I think you have to look at the service fee and the outcome fee as a totality which the provider is using for the ultimate aim of getting our customers into work and keeping them there.

Jim Knight: As a demonstration of that, the decision that was made temporarily to increase the service element for FND from 20 to 40 was not because we wanted them to add some specification in what is covered by the service fee; it was about the increased projected volumes and how that was being risk managed and what the response of the market would be to be able to do that.

Q75 Chairman: Nevertheless, you have significant systems to check that the outcome-related element is genuine, but you do not have much of a system to check that the service fee element is invested as you would want it to be invested.

Jim Knight: I think we have good systems in place to be able to check that the service is being delivered. I would philosophically argue with you that the delivery of the service is not in its entirety covered by the service fee element. The 150 people we have working in the contract management side, the 30 people we have working in the assurance side, plus all of those who are working in payment teams and so on, with a capability and a capacity which people have assessed and said is very strong and certainly is on a par with the commercial world, is a good system in place to manage the service levels that we are getting out of our contractors.

Q76 Chairman: One final point, because we might have thrashed this to death. On the Pathways to Work, provider-led, I think now every single subcontractor arrangement is lapsed.

Mr Cave: I am sorry, do you mean every arrangement between a prime provider and a subcontractor?

Q77 Chairman: Is it not the case that every subcontractor arrangement with the third sector is now lapsed?

Mr Cave: No.

Q78 Chairman: How many have lapsed?

Mr Cave: We are aware of a small number of cases where prime providers have changed their relationships with their subcontractors. In principle we have no problem with that, because we want to make sure that prime providers are using what they regard as the best subcontractors and getting the best service from them, and on some occasions that means they change subcontractors, but the notion that all third sector subcontractors have fallen away is not one that we understand.2

Q79 Chairman: I think you need to go away and check that

Mr Cave: Okay.

Q80 Chairman: Returning to the events this summer, are you satisfied that the penalties that the company suffered were appropriate and harsh enough?

Jim Knight: 1 am. Obviously I looked at that in some detail and asked our risk assurance division to look at it and go in and do a sort of proper investigation

Note by witness: There were 33 third sector sub-contractors delivering Pathways to Work when contracts were let. Some of these organisations were sub-contracting to different prime contractors or delivering in more than one location. Of the original 33 sub-contractors involved in delivering Pathways to Work, 28 organisations are still involved in delivery.
that then reports to our audit committee. We have no evidence of systematic fraud, systematic abuse of the system by any of our contractors. If any such evidence were to be found, then I would have an expectation of very robust action from us and want to ensure that that would happen against those contractors in a punitive way. We have around 10,000 people, as I understand it, working for our contractors in this area. There are inevitably, amongst 10,000 staff, going to be one or two rogue elements who will try to manipulate and defraud the system. I am confident that is what has happened in this case, that there have been one or two rogue elements and they have been flushed out and dealt with by the system, by the contractors.

Q81 Chairman: In one organisation there were rogue elements in five distinct locations around the country. That suggests a little bit more than rogue elements. It sounds like very weak controls. If the same situation can happen in five different locations in the same company, then there is something wrong with the basic management controls, is there not?

Jim Knight: Again I would argue that. If you look at our four or five prime contractors, they account for over 4,000 of those staff. If each one of them is employing 1,000 people, yes, there will be instances. I have been reassured with the response from those contractors in terms of wanting to continue to improve the control systems they have in place. We have had a positive response. I think you have been told that A4e spent approximately £2 million on improving the system following an investigation. That is the sort of response I want to be able to see from contractors if there are concerns, that they are properly on top of finding any of those rogue elements that they might have employed and dealing with them robustly. I think they have done that and I am happy and confident with the system.

Q82 Chairman: We do not really want to get into individual names, but as you have raised one company I would argue that if they had not had the bonus structure they did, a lot of the problems would not have happened. Instead of spending £2 million afterwards, if they had spent £1 million in advance the problem might not have occurred in the first place. Are you happy that companies which are under investigation can remain on the list of people able to tender for current contracts?

Jim Knight: If they are under investigation, yes I am happy. Obviously if the investigation has found that there is a serious problem, then that needs to be properly reflected in the system when we are looking both pre-qualification stage and then onwards and at whether or not we want to give them any more business. If it is simply that they are under investigation, given the scale of the amount of work that they do for us and that there will be some people who might want to pursue complaints—we have heard that, of the 78 complaints, the majority are found to be unfounded—it would be unfair on providers, and in the end we might end up having to pay more to providers for them to be able to manage the risk that if someone makes a complaint that then leads to an investigation they are then not allowed to compete any more. In the end you pay for that. As long as if the investigation has found that there is a problem and we deal robustly with it, I do not have a problem with them being under investigation and still applying for more work.

Q83 Chloe Smith: Moving on to standards and the submissions of evidence that this Committee has received, lots of providers have said to this Committee that their work exceeds DWP standards. Would you say your standards are therefore strict enough?

Jim Knight: Do you mean that they are exceeding the specified standards or do you mean that the work that they do is better than the work that Jobcentre Plus does?

Q84 Chloe Smith: If you would answer the first one first, and then we will get to the second as we go through.

Jim Knight: Obviously when we specify quality which Ofsted in England, Estyn in Wales and HMIE (Her Majesty’s Inspector of Education) in Scotland, we are specifying a standard that we want to achieve but we are delighted when that is exceeded because a standard is something that you set as a minimum rather than that everyone should constrain themselves and come down to a lowest common denominator. Yes, my expectation is that people would be looking to exceed that standard and in many cases will do so. In respect of whether or not they are doing a better job than Jobcentre Plus, they are doing a different job from Jobcentre Plus. As I said in the speech I made to the Work Foundation a couple of weeks ago, I have found it slightly odd that there is not more attention in terms of the commentary and commentators on the job that Jobcentre Plus does, given that it deals with 90% of job seekers and our contractors deal with only 10%. But I will park that. The 10% are getting a different experience from Jobcentre Plus and that is why we refer jobseekers to contractors. We have tried for a year to be able to help them and sort them out, and if Jobcentre Plus has not been able to do it within a year, then we refer jobseekers to a private contractor or a third sector contractor and let them get on with it in a more personalised way. Indeed, I also said in the Work Foundation speech that I want us to be able to adopt a little bit more of the black box thinking that our private contractors do, a little bit more of the personalisation that they use, the better use of technology that is becoming more of a characteristic of those providers, to use those in Jobcentre Plus as part of our improvement of the service for the 90%.

Q85 Chloe Smith: Picking up on the point you were making there about the particular characteristics of these schemes at the end of a certain cycle, and picking up on your mention there of Ofsted and Estyn, Ofsted and Estyn have great experience through their educational side of looking at vocational or academic training. In your view do they have the expertise to be assessing this type of
Q86 Chloe Smith: Do you envisage a point coming up shortly where you will be able to, as it were, review the reviewers? Will that be occurring some time soon? Alan is nodding.

Jim Knight: Alan, you are itching to get in and I will let you.

Mr Cave: We do have a regular review process with Ofsted, Estyn and HMIE now in Scotland, and that is a way of taking stock of how well we have worked together and how well we think they are focusing on our needs. Just to reinforce what the Minister is saying, I have a team who are dedicated to working all the time with the inspectorate. They are looking at the inspection methodologies that Ofsted, Estyn and HMIE bring, seeing how they need to be adapted to create specifically the DWP framework for inspection which takes account of exactly the issues which you mentioned in your question, and then plan how that framework is to be run across the respective programmes, so that we are also picking up the particular issues which we need to be tracked programme by programme. We have signed on a regular contract with each of those inspectorates, but it is frequently reviewed and we will always be looking to see whether we are getting the best value from those providers of inspection that we need to.

Q87 Chloe Smith: Going back briefly to some points that have already been ably dealt with around the supply chain, will Ofsted look just at private contractors?

Mr Cave: No. They look at prime contractors and their subcontractors.

Q88 Chloe Smith: Coming back on some of the fraud elements that have been covered already, are your prime contractors obliged to pass the various anti-fraud measures (the whistleblowing charters, for example) down the line to the subcontractors?

Mr Cave: Yes. We hold the prime contractor responsible for the delivery of the contract in its totality, which includes those standards, and therefore they need to make sure that those are being displayed by subcontractors in the supply chain.

Q89 Chloe Smith: Is there a way for whistleblowers to come direct to the DWP if they feel the need?

Mr Cave: They can do. The statistics which we mentioned earlier indicated that they have done on occasions. Obviously the prime route would basically be out through the supply chain.

Jim Knight: As with a lot of complaint systems, normally you would expect them to go through the process and start with their immediate relationship. If it was a serious thing and they felt it was worth going straight to us, then they would go straight to us.

Q90 Chloe Smith: On the announcement of inspections and audits, are you operating a system where those are pre-announced?

Mr Cave: They are pre-announced typically by six weeks.3

Q91 Chloe Smith: Why was that figure arrived at?

Mr Cave: That has been in discussion with the inspectorates, about what their experience is in their sort of heartland inspection and what we think might be appropriate in ours. We find that works okay.

Chloe Smith: Thank you.

Q92 Mrs Humble: Continuing the theme of how you supervise your contractors, I would like to ask some questions about the evidence for job outcomes. You touched on this earlier on in an exchange with the Chairman, however we were told by the Papworth Trust that “DWP is overly dependent on the prime provider or subcontractor providing the outcome rates of a particular programme rather than relying on independent results.” What do you have to say to that?

Jim Knight: In questioning, what did they mean by independent sources?

Q93 Mrs Humble: It was not just Papworth Trust but also other people, about getting the balance right between ensuring that the companies themselves have their own rigorous controls but that you have controls as well, so that you are properly monitoring them rather than just automatically believing them.

Jim Knight: We expect providers to evidence their claims for job outcome payments. We conduct the range of pre- and post-payment checks to validate those outcomes depending on the type of provision

Note by witness: Currently, HMIE give four weeks notice of inspection, Estyn give three months and Ofsted give eight weeks notice but are consulting on reducing this to three weeks.
and job outcome. We conduct an off-benefit check of job outcomes for FND, for example. We ask the provider to supply evidence of any claims that fail this check, so to speak. There is a certain amount that we can do in terms of doing a spot check, following both customer and the employer, and making sure that those outcomes are properly being adhered to. That is through the new operational support team attached to the PRaP (Provider Referral and Payments) system. The new PRaP system, in terms of giving us a much richer flow of data coming back through as it is properly implemented, will deal with some of Papworth’s concerns more robustly.

Mr Cave: I do not really understand that. We do not yet have the first outcomes for Flexible New Deal so we have not yet been applying that, so I do not really understand where that figure could come from.5

Q96 Mrs Humble: We have also been told that there are some concerns that providers could link with recruitment agencies to find people jobs which lasted for 13/14 weeks but then they lose their job immediately afterwards and new people are taken on. You were talking about your confidence in tracking the jobs for 14 weeks, but what about the 15th week?

Jim Knight: If that has any evidence, it is not fraudulent but it is bad practice. That is something I would expect our contract managers to pick up as part of the work that they do working with our contractors and ensuring that they are delivering good practice. Certainly one of the reasons for the outcomes in Pathways and FND contracts, including a percentage of outcomes to last 26 weeks, is to be able to help deal with that sort of concern.

Q97 Mrs Humble: Can you scroll back to your supervision of contactors. It is largely a paper-based system, we are told. We have had complaints about the amount of paper that is involved. A4e told us that, for the prime contractor, New Deal needs 136 pieces of paper per customer, and that does not include the subcontractors. That is an awful lot of paper.

Jim Knight: I know. I would love to be able to wave a magic wand of IT implementation to get rid of a lot of the paper that flies around in our system in order to manage risk and provide proper audit trails and for all the reasons why all of those measures have been put in place. The PRaP system that I referred to, the Provider Referral and Payments system, is designed exactly to shift it away from that sort of exhaustive and exhausting paper trail into something that is much more efficient and more automated and gives us much richer data to be able to manage the contract.

Q98 Tom Levitt: I would like to turn to risk assurance. The risk assurance division reports are not published. Why not?

Jim Knight: We do not ordinarily publicise the details of specific contract investigation, partly because the reports may contain personal data and witness statements that we do not think it is appropriate to publish. Clearly we could redact them, I guess—to use an unpopular phrase—but then also you have issues around premature exposure potentially prejudicing or damaging DWP or police investigations. If the allegations are found to be unfounded, you then have the risk of litigation against the Department from the provider who is found to have no problem and no case to answer. That, in turn, could damage our contract.

4 Note by witness: For Flexible New Deal, where an outcome payment is made after a job has lasted 13 weeks, PRaP automatically conducts a pre-payment off-benefit check on each and every case claimed for payment. For other provision, such as Pathways to Work, where payment is made for a job expected to last 13 weeks, 10% of those cases are routinely followed up by the PRaP Operational Support Team (POST) and a pre-payment check of the evidence to support the claim is undertaken. In addition POST carry out unannounced checks back to the individual client on a percentage of cases. These checks further validate the claim.

5 Note by witness: The 50% accuracy rate quoted represents a percentage of all benefit leavers and does not apply to the “off benefit check” of providers outcome claims where providers have evidence that the customer has been in work for 13–26 weeks.
relationships with these providers, on whom we are relying to do a really important job for us, of some value, as we have been discussing. Obviously the reason why that relationship may be damaged and why there may be a potential for litigation is because of the reputational damage that they would suffer in the market-place. Those are all the reasons why we would prefer to use the RAD processes to look at things properly, give us our internal reports and report to the audit committee of the Department which is staffed by our non-exec board members who independently look at these things, and obviously there may be things that the risk assurance division would discover that they would refer to the police also. We would disclose those to the police, and if we are jointly commissioning any of those contracts then we would disclose them to our other partners as well.

Q99 Tom Levitt: ERSA, on the other hand, have told us they would be happy for the reports to be published, because in cases where there is wrongdoing there is both the public right to know and an obligation to let others learn from that experience. How do you square that balance. Are the reports FOIable?

Jim Knight: There are elements that are FOIable and are FOIed, if that is a verb.

Q100 Tom Levitt: We will wait to see when Hansard comes out.

Jim Knight: Also, there is a certain amount that we disclose through parliamentary questions—as the Chairman knows because he has asked some of them. Where it is appropriate to disclose them, we can and do disclose them, but it is right to be cautious about this because of the sensitivity of the area we are dealing with.

Q101 Tom Levitt: Is there any way in which lessons can be learned? Can general conclusions from RAD reports be published and discussed?

Mr Cave: Yes. There is a point here which we would be very happy to take away, which is about whether we could do some more regular reporting of trends and lessons learned, and take, for example, the statistical data that comes from the RAD investigations which they would regard as appropriate to put in the public domain because it does not risk the factors which the Minister described in his earlier answer.

Q102 Tom Levitt: There are some organisations which do work for you through FND and other avenues which also do work for other government Departments, in particular in the skills arena. Is it possible for some of those companies, by the nature of the contracts in which they are engaged, to be paid twice by two different Departments for the same outcome?

Jim Knight: Obviously I want to say no. I cannot give you that absolute cast-iron assurance, unless Alan is going to tell me.

Mr Cave: I am trying to think what the circumstances might be. I suppose there is and we would need to look at this, Mr Levitt. The only area I can think of is perhaps a sliver of overlap in the skills for employment area. I am not aware of that, but I suppose by definition there is a possibility there. In one sense the beauty of our approach is that we pay for very straightforward outcomes, job outcomes. Where you have other funding streams which are paying for activities, then I suppose it is possible that you could get a slight overlap.

Jim Knight: I think is extremely unlikely. As we are integrating the employment and skills arrangements for our customers, it becomes more and more unlikely. I would want it to be impossible. In the White Paper that we published yesterday you will have seen the “single skills purse”—which I think was the phrase we landed with—which we are looking at, with around £250 million a year going into it from ourselves (DWP) and the business Department. That will be used jointly to commission a skills provision. The only other area of any significant skills provision for our customers is the ESF provision. There the auditing regime that we work to from the European Union is extremely exacting in ensuring that that provision is very discrete and quite separate from whatever other provision we are using from both the mainstream skills sector, funded by BIS, and the few skills programmes that we also fund on top of the BIS provision.

Q103 Tom Levitt: If there is an investigation by RAD or someone else within the DWP about fraud or even poor performance, would that investigation and the evidence be shared with other government Departments which may have contracts with that same organisation that is under investigation?

Jim Knight: As I have said before, if this is something where we are sharing the provision with another provider and another government Department, then obviously we would share the information and disclose that. Otherwise, we do not generally pass around the work of the RAD to other government Departments willy-nilly.

Q104 Tom Levitt: Even if it is serious fraud, perhaps? There may not be a shared agenda with the other Department, but there may be areas of overlap where it would be appropriate if the same people were being investigated.

Jim Knight: Yes. That situation has not yet arisen of a serious fraud. Certainly if a serious fraud took place, then that would very much be in everyone’s interests for that to be in the public domain. From experience in other Departments and elsewhere, a process is gone through, particularly in the pre-qualification stage of contracting, to look at both here and overseas whether or not there is anything of concern on the record of that provider, and a serious fraud carried out in this country would be one of those.
Q105 Tom Levitt: You asked ERSA, the industry body, to draw up a customer charter. Why ask the poachers to draw up a gamekeeper’s charter?

Jim Knight: We had an excellent launch, beautifully chaired, of the customer charter. Whilst in answer to Chloe Smith’s questions I talked about the way I want us to learn more within the main Jobcentre Plus function from some of the things that our providers do, this was a case where our providers and ERSA took some of the work that we had done in Jobcentre Plus through our customer charter and were able to fashion it to suit the industry as well. I would not say we just said to them, “Go away and sort out a customer charter.” It was more a question of saying “We’ve got a great customer charter, we think you should have something similar,” and they have been very happy to go with it.

Q106 Tom Levitt: Their customer charter is voluntary and there is no mechanism for enforcing it. Other than being a general signpost, what is its value?

Jim Knight: It is a helpful standard that we are putting down, that there is an encouragement on first providers to sign up to it. I think there is an encouragement from the industry to want to be able to use it alongside some of the other things that we do. We have the mandatory code of conduct that they have to sign up to as part of the contract that we can enforce during the contract; we have the Merlin arrangements that are now being developed, where there is a certain amount of self-regulation but there is quite a lot of power attached to them and the prime contractors would have to be accredited; and then you have the customer charter that complements that as a sort of three-legged stool of improving quality for our customers.

Q107 Tom Levitt: The Committee believes that customers will appreciate having better access to information about what is available and what they can expect from providers, particularly if it means they can spot when they are being “parked”. Unfortunately I was not able to go to Glasgow, but colleagues who did reported back that some of the customers they met were quite impressed at what they heard other customers were getting but to which they did not have access. Clearly there is a deficit here to be made up about making sure customers do know what ought to be available. Do you think the charter will achieve that?

Jim Knight: It is part of trying to achieve that and alongside some of the other things we are trying to do. If you are in an area where there is more than one provider, we are starting to introduce the notion of informed choice for customers. Again if customers hear that one provider is better for their sort of circumstances than another, they would then be able to choose to go with that provider when they are offered a choice between providers. This much more customer-facing approach that we are trying to adopt in Jobcentre Plus being replicated by our providers is another. When I visited one of the providers in Camden relatively recently, the main reason why they had introduced the personalised log-in, the use of text messages, the use of technology to personalise their service for customers was as a response to a focus group that they had done with customers where they were really trying to listen hard to what customer expect from those providers. In many ways that is much more powerful than coming from myself or Alan telling our providers what they should do. If they can be listening to the customers and responding accordingly, that is part of the engagement that we were talking about a little bit earlier on.

Q108 John Howell: I would like to pursue the theme of customers a bit further. There are two broader issues, one is about the weight given to customer experience, which follows on from the last comments; the other is about the level of contact that there is between customers and DWP. One of the messages that came through during the course of the inquiry was how little direct contact there was with customers as part of your inspection process. For example, Ofsted was the principle means of having any feedback directly from customers. Is that really an adequate way of looking at and getting engagement with customers?

Jim Knight: We do take customer experience very seriously and customer feedback is part of our contract management process. Customer experience and the measurements of that and the feedback of that are absolutely critical to quality and to measurements of quality and the principle way in which we inspect quality—and we have to be cautious in all this conversation about having this burgeoning bureaucracy that goes around marking our contractors at every stage. We have to be clear and relatively simple in the way that we do this and the clarity and simplicity is that Ofsted or the others in the devolved areas are the people who inspect quality. I think it is right to put the principal relationship between customer and quality through the Ofsted process.

Q109 John Howell: Comments came back from a number of the organisations inspected. For example, if you take Reed, the emphasis was on the sporadic conversations that they saw taking place between DWP and customers. Another organisation said there was no means of seeing how the customer charter and a customer satisfaction metric were driving quality improvements. The Wise Group said the current system encompassed only sporadic conversations with clients beyond exit interview, and that perhaps it would be more revealing if conversations were to take place with those who leave the programme early. There are a number of issues in there, including the fact that you are getting only those people who have stayed in the programme for a long time. You are not picking up those who are going early, and therefore you are not picking up some of the problems—and I will come on to some of the problems in a minute.

Jim Knight: We commissioned various bits of work around customer satisfaction and the issues you raise about the dangers of ending up only talking to those who remain our customers for a very long
period of time are very real within any of that sort of research. Certainly I am interested in whether we can go further generally but within the normal constraints that we have, both for Jobcentre Plus and others, as to how we can best measure customer satisfaction that account for all of that.

**Mr Cave:** Something which will not be so visible to the providers themselves is the relationship between the customer and Jobcentre Plus, which of course maintains the key relationship with the customer throughout their time with providers and through whom the route of complaint back, right up to and including the independent case examiner, runs. Issues about the performance of a provider in respect of customer service will be picked up through Jobcentre Plus through the role of the third party provision manager who is in every Jobcentre Plus district. That role has an important seat at the table of our provider engagement meetings which take place district by district and bring together Jobcentre Plus, the provider and the contract manager, and so that is an important forum for seeing whether there any systematic customer service issues. The second point I want to make is to acknowledge the spirit of your question. In a big business we cannot be complacent about customer service and what we know about customers. That is why, as the Minister says, we are conducting some research at the moment about the drivers for customer satisfaction. We have mechanisms now where, in the future, we can build that more systematically into our performance management of providers, and, indeed, our evaluation of the effectiveness of the system as a whole. We are keen to do that.

**Q110 John Howell:** The complaints we were getting were quite serious. They were about poorly trained advisers and seriously inadequate facilities: of people being crammed in, very few toilet facilities, very few computer access/phone facilities, and zero hour contracts. I want to come on to zero hours contracts as a separate issue, but in terms of serious problems like that, how aware are you of how widespread they are and are you able to do about it?

**Mr Cave:** Issues of that sort will absolutely be picked up through the contract management route. To advise you where we are in the transition of the system, one of the big reasons for moving our commissioning strategy towards the longer contracts with higher outcome funding is to provide the commercial cover for a serious amount of investment in facilities and people. I find, and I would imagine you might find in your own constituencies, that when you go around the new FND provider premises they are significantly better than their predecessors. They have a significantly higher number and better quality of staff than we have had before, and that is as a direct consequence of the shift between them.

**Jim Knight:** Particularly in respect of those new FND contracts, where by awarding longer-term contracts over five years you are getting better investment from the provider in things like premises and facilities—and it is always difficult for the Minister to know what the reality is because I always get taken to some of the best stuff, so I am always very interested in any evidence that others may have through visiting provision in their constituencies or elsewhere just to make sure that the reality that I see is the reality everywhere—I have been hugely impressed with what I have been taken to.

**Q111 John Howell:** To pick up on the zero hour contracts which do not guarantee a set number of hours, there seem to be a number of these coming through. Are they really acceptable as outcomes?

**Jim Knight:** They are not acceptable. In order to receive an outcome payment, providers have to supply evidence that the job is expected to last for at least 13 weeks. Clearly a zero hour contract would not pass that test and the outcome payment would therefore not be made.

**Q112 John Howell:** That is encouraging. I would like to pick up on the remedy that customers who are dissatisfied might have. I too was unable to go on the Glasgow trip, but I understand the Committee met customers of a particular provider, the vast majority of whom were unhappy. Do they have a right to change providers? Should they have a right to change providers? How do they, with such a large body of dissatisfaction, deal with that?

**Jim Knight:** In terms of customer complaint, there is a three-stage process to this. We would initially expect—as anyone would expect—for them to pursue their complaint internally through the complaints process that providers should have in place for their customers. If that does not give them satisfaction, they can come through to the Jobcentre Plus complaints process, and then, ultimately, they could go the independent complaints examiner. That is the process by which they would move. As I said earlier on in response to Tom’s question, we are now starting to introduce with Flexible New Deal, in multiple provider areas, the notion of customer choice, which again I am quite enthusiastic about, enthusiastic about the beginnings of a notion of adviser choice within Jobcentre Plus and similar notions of provider choice from those that move off from Jobcentre Plus services into other provision.

**Q113 John Howell:** There seems to be a growing move—and I think the Committee has already made a recommendation to this effect—in terms of seeing an Ombudsman in place to deal with complaints
here. First, is that something you are sympathetic to, and, second, given the growing need for that and the growing perception of the need for that across the industry, is that not an indictment of the way in which the complaints procedure is working?

**Jim Knight:** I am not brimming with enthusiasm for another Ombudsman to be established with all of the associated costs. In fact, someone might accuse me of setting up a new quango, and God forbid that that accusation would ever be made. We have an independent complaints examiner, so in many ways some of the functions that you would want to be performed by an Ombudsman are already there, and if we have substantial concerns that are coming through about how effectively the independent complaints examiner is working, then obviously we would look at that and look at how we would improve that rather than rushing to set up yet another body.

**John Howell:** I would not dare accuse the Government of rushing to do anything.

**Q114 Chairman:** To pick up on this customer complaint procedure, we have to accept that there are those who are, shall we say, less than enthusiastic about the return to work agenda.

**Jim Knight:** Yes.

**Q115 Chairman:** If they have been left alone by the provider, that probably quite suits them.

**Jim Knight:** Yes.

**Q116 Chairman:** But accepting the provider is not then going to get an outcome payment but they do have the service fee, does this not undermine it?

**Jim Knight:** I guess in the end I see a lot of that being dealt with with the accelerator model of payment that we will be trialling through the personalised employment programme. That, frustratingly, still will take a little while to get going because of the amount of time that it takes to procure these things. The start is 2011 for the personalised employment programme. In my own mind those, sorts of payment mechanisms are the best way of dealing with the parking issue alongside the robust contract management. The Department has done things around improving capability and the way we value the work of our contract managers and our assurance people whilst we are waiting for those new payment mechanisms to be procured and to be tested and to have the assurance that they are going to work, and that side of things will help us deal with the parking issue better than some of these other scenarios. It is very important to listen to customers, but because of precisely the point that you raise, that there is the potential for a bit of comfort on both sides—that there might be some customers who will be quite happy to be parked and there might be some contractors who will be quite happy to park them—we need to ensure that is not happening, that the Ombudsman, the customer charters and all that are not going to expose that particular problem because there is an area of complicity about that.

**Q117 Jenny Willott:** You talked about the process of people changing provider if they are not happy with the provider that they have. The process that you have described is incredibly long and complicated: they have to go through the whole complaints process before they can do that. Most of the people we are talking about are often scared that if they complain too much it means they are going to have problems with their benefits. Some of the people we met when we were up in Glasgow clearly lacked self-confidence. They did not lack the motivation, because a lot of them were very keen to get into work, but they lacked the confidence to go and follow through a process like that. It was very clear from the people that we met that the service provided by different contractors varied hugely and the satisfaction that customers had varied massively as well. Some of them were very keen when they had heard what was being provided by some of the others to be able to change. There is absolutely no way that they are going to go through the process that you have described to do that and put their neck on the block to make that happen. Should it not be easier?

**Jim Knight:** The introduction of star ratings for providers, and the notion of provider choice where there are multiple provider areas, is more about, at the point at which people are being referred to providers, them being able to make a choice and an informed choice, because they can look at the star rating in the same way that we are doing in all sorts of other areas of public service.

**Q118 Jenny Willott:** But for those that are already in the system.

**Jim Knight:** For those that are already in the system, I would accept there may be some more difficulty, and that is where we need Jobcentre Plus to use its ongoing relationship with the customer to be able to pick up that dissatisfaction and be able to feed it back through the TPPM, whatever that stands for.

**Mr Cave:** Third party provision manager.

**Jim Knight:** That is the one, and to ensure that provision is improved.

**Q119 Jenny Willott:** That also relies on them having a relationship with JCP. One of the other issues we received a lot of evidence on was that every single time they went into the Jobcentre they saw a different person. They had no idea if they had an adviser. There was no continuity and they did not have a relationship with anybody that could have picked that up. What you are suggesting would mean that there would need to be quite an overhaul in the way that JCP operates with clients as well as the way that providers do.

**Jim Knight:** I have been pushing to get more of a consistent relationship between individual advisers and individual customers. Yesterday, in the White Paper, we announced for young people dedicated personal advisers from day one, to be able to build up that relationship with those advisers. Similarly, we are looking at the development of adviser-led teams with ring-fenced casework, if you like, so you have personal advisers and the fortnightly signing clerks—who have an official title which I cannot
remember—all working in a team with consistent case work, consistent relationships. One of the great things I have seen with the Future Jobs Fund, for example, has been that the young people whom I have met have been able to take up those opportunities, so that in every single case they have known the name of their fortnightly person they have been seeing, and it is that person who has phoned them up and said, “We’ve got an opportunity for you, come in for an interview” and the gratitude they show to that individual member of our staff. In relative terms these are junior members of our staff doing a fantastic job personally to make that happen. I personally agree with you, that is where we need to be rather than a rapid turnover. If that was the experience you had in Glasgow, you will also have noticed from the White Paper yesterday that that is one of the four districts where we will start looking at a much more delegated model and much more black box provision within Jobcentre Plus. If the managers in Glasgow choose to push further with personal relationships and consistent relationships between advisers and customers, then I would welcome that.

Q121 Jenny Willott: It will be interesting to see how long that takes until it feeds through.
Jim Knight: It is always interesting how long things take. Sometimes it comes with a certain amount of frustration.

Q121 Jenny Willott: Turning to contracts with subcontractors: in Pathways, providers were obliged to list subcontractors in their bids, but a large number of those relationships have since broken down and we have heard evidence that some of those contracts were made in bad faith by the providers. How can you prevent that from happening again?
Jim Knight: Whilst we need a certain amount of caution around the extent to which we get too rigorously involved in telling our contractors what they have to do in an unreasonable way, as we go through the procurement process obviously we will require disclosure of the subcontractual arrangements that the contractor is intending to make so that we can look at those and be assured about those. Our contract managers would also be looking at how those arrangements are working for us. The development of the Merlin Standard and the accreditation and the Merlin approach will be a really important part of the industry being able to gain more confidence about how prime contractors have a relationship with their subcontractors and use them properly.
Mr Cave: With Flexible New Deal we have continued the process and deepened it from the Pathways execution, where we require a lot of detail about not only what the subcontractors are intending to do but why. To step back for a moment, the strategic intent here is to move to a situation where we are really clear, all of us, that wherever we look in the provider base we have the best possible provider for that particular function or purpose or customer group in place. That has, frankly, as you discovered in Glasgow, not been the case in the past to the extent that we would have liked to have seen it, and so the whole purpose of the approach of the commissioning strategy is to make all of these supply chain arrangements much more visible and much more transparent. It is important to say that if bidders go into a competition with the best of intentions and say, “These are supply chain arrangements” and then discover in practice that some subcontractors are not delivering to the extent that they should be, we want them to change those arrangements. We have no investment in maintaining supply chain arrangements which are not effective.

Q122 Jenny Willott: In Glasgow we met organisations that were subcontractors and those which had decided not to be and those which had tried to be and failed at getting the work—so really quite a broad range. The evidence they gave us was that they had to submit expressions of interest to the prime contractors but from that stage on they had no idea whether they were being included in the bids or not, so they did not have any idea until after the contracts where tendered whether or not they were included and whether or not they had work with any of the particular prime contractors that had tendered for the work. That clearly would suggest that there are not particularly strong or necessarily genuine relationships between the primes and the subs that are being put forward. Does DWP do anything to check to see whether those relationships are genuine and how reliable they are in the bids? What do you do to check that?
Mr Cave: We require each bid not only to say what its subcontractors are but to submit evidence from those subcontractors to show that they are aware that they are in that bid and have given their assent to it.

Q123 Jenny Willott: It is clearly not quite working in Glasgow then.
Mr Cave: It did in FND. There is a bit of reality here, which is particularly bearing in mind the pace at which the FND last stages of implementation went, there is a period in which there is a lot of fluidity. Each subcontractor probably is in more than one bid.

Q124 Jenny Willott: Yes.
Mr Cave: That is sensible business practice because you want to cover your risk, and so everybody is doing a bit of a dance during the period in which we are running up to finalisation.
Jim Knight: It is also worth saying in general terms around all of this that we are in a transition period to a new contractor model. We are in a period of moving from some 6,000-odd contracts with about 1,500 suppliers to about 200 contracts and about 50 suppliers. For some of those that are no longer having a direct contractual relationship with us, that will appear quite threatening, particularly for those that are less satisfied with moving to more outcome-based contracts rather than input-based contracts.
That also creates some uncertainty for them but that is uncertainty that is in the public interest as far as I am concerned.

**Q125 Jenny Willott:** That was not an issue that was raised with us. The point was entirely about the fact that they were being asked to submit information to the primes but then they had no idea if it was included or not, and so they did not really know what their role was.

**Jim Knight:** I get some of that feedback as well and I am trying to make deliberate efforts to hear that feedback by meeting with some of those third sector providers. I had a very good session with them, I think last month, over a couple of hours to try to understand how they thought things were going and get their feedback on Merlin and so on, and I will continue with that sort of engagement with them on a regular basis every two or three months just to make sure that I am directly hearing from them and not just trusting my great officials to give all the feedback.

**Q126 Jenny Willott:** Moving on now to some of the elements itself, we have heard of a company that is receiving a 40% onflow tolerance from DWP but only passing on 15% to the subcontractors. Is that acceptable? Would the current system of monitoring pick that up as a problem?

**Jim Knight:** Clearly our relationship principally is with the prime contractor and they have to work things out with their suppliers as to how they reward them and we have to be quite cautious about getting too involved in all of that. Most people accept a theology of moving to outcomes and to prescribing far less of people and allowing them to be more innovative. There is a flip side to that, which is we are not managing every last transaction and every last relationship. You pay your money and takes your choice really.

**Mr Cave:** I can imagine there is a range of different arrangements out there and we are quite deliberately encouraging a range of different delivery models because we want to see some innovation at the moment. For example, I can envisage that you might have a prime contractor whose model is to take on the cost—because they have the prime contract—of a lot of investment in systems facilities and management processes, in order to free the subcontractors up from that. That will affect the pricing arrangement which they come to. Others may take more of a stance of saying, “We want a subcontractor to do end-to-end service delivery in a particular area” so you would get a different arrangement there, and so on. You will get differences in this. Alluding to the meeting that Jim mentioned a moment ago, one of the very interesting comments made by a third sector provider in that session was that when presented with a proposal by a prime contractor for a particular pricing model, they found it unacceptable so they walked away. I thought that was great because that is the way you get change happening in a commercial arrangement. The more that we have work concentrating on those organisations who genuinely have a specialism and a valued contribution to make, the more market power they have in this system and the more by walking away they can change those terms.

**Jim Knight:** Just by way of reassurance, because I would not want you to think we do not care at all about what happens to the subcontractors—

**Q127 Jenny Willott:** I was just going to ask that.

**Jim Knight:** —we have a code of conduct. We have generally, for all DWP’s suppliers, a supply charter to reflect our priorities. I have waxed lyrical about the contract management interventions, but the National Audit Office has looked at those commercial processes and confirmed that they are very strong and have very strong capability and of course we have the Merlin Standard. We are putting structures and mechanisms in place to try to protect the supply chain, but we have to do it on the basis that in the end our prime relationship is with the prime contractor.

**Q128 Jenny Willott:** You are relying on the subcontractors to police effectively the way that they have a relationship with the primes rather than you having any parameters as to what you would consider acceptable.

**Jim Knight:** We have parameters set out in the code of conduct and they have to abide by that. That is part of the contract. There is a lot of interest across government in what we are doing with the Merlin Standard and within the third sector in what we are doing with the Merlin Standard—because I think we see it as being quite an interesting and useful way forward—where we are getting accreditation from the prime contractors but we are involving the subcontractors in the development of that. If that then becomes a form of self-regulation, most people agree that self-regulation is a positive step forward within parameters that we set in our code of conduct.

**Q129 Tom Levitt:** The problem we raised in an earlier session is that Merlin is not going to be fully up and running until all this process of contracting out is completed.

**Mr Cave:** Time-wise that is not quite true. We are starting to use Merlin out on a pilot basis in February/March next year with FND phase one providers and that would be then used in FND phase 2 as that comes in. It is not there at the very beginning of FND phase 1, but it is very shortly afterwards.

**Q130 Jenny Willott:** I think you will be getting some more questions about Merlin from Oliver next, so I will make sure I do not touch that. We also heard that on Workchoice contracts a 30% management fee seems normal. It is about what seems to be charged. Does that mean that DWP is overpaying?

**Mr Cave:** Workchoice does not go live until October next year, so there are not any fees agreed.

**Q131 Jenny Willott:** We have heard evidence that is what is being negotiated at the moment.
Mr Cave: Then that will show up in the bids and they will be evaluated, but we do not even have bids in yet.

Q132 Jenny Willott: Would you consider that reasonable as a level of management fee?

Mr Cave: It is the same answer as the Minister gave. We do not have a standard view on what the commercial relationships should be between the prime contractor and a sub. We have a set of principles which are there in the code of conduct and we have various tools which we have described.

Q133 Jenny Willott: Does DWP ever see the contracts with the subcontractors? Do you ever monitor them?

Mr Cave: We do not routinely ask for them because our commercial relationship is with the prime contractor. We can do, we have the authority to ask for them, and if there are issues raised which we think we ought to look at, we would be able to see them.

Q134 Jenny Willott: Do you have powers and would you consider using powers to force changes to the way that the contacting arrangements were operating and were proposed when you were negotiating with primes?

Mr Cave: We have some terms and conditions in our prime contracts which are mandatory down through the supply chain. They are things like prompt payments, security of data and so on. Those are absolutely a kind of mandatory spine through the supply arrangements. We also have the powers within contracts to look at and change delivery mechanisms. Picking up on some of the earlier instances: if, for example, there was a significant issue about customer service in one part of the supply chain for one programme, we would pick that up through the contract management process and we would make sure that that arrangement was being changed and that we got a better subcontractor in for the particular area.

Q135 Jenny Willott: If there was an evidence that a subcontractor was not making enough money to be able to run the service that they were providing, that they were effectively subsidising the work that they were doing as part of the contract from other sources of income, would you ever want to be involved in that?

Mr Cave: If that situation were arising because of a breach of a code of conduct, we would be involved. Again the commercial relationship is with the prime contractor. They are responsible for delivering what that contract needs to deliver in totality, so we hold the prime contractor to account for that.

Q136 Mr Heald: A few years ago it was this Committee that suggested the approach that eventually became Flexible New Deal; namely, to have a black box approach, with plenty of flexibility to try to really help people into work.

Jim Knight: We always try to listen to the Committee.

Q137 Mr Heald: I am very grateful to hear that—and Merry Christmas to you, Jim. Of course one of the points that was being made was that there are some small providers who do an excellent job who are very innovative and who are working with particular parts of the job market. The concern is that they may get squeezed out or not treated fairly by the prime contractor. Is that a concern that you share?

Jim Knight: Yes, we are bound to want to ensure that the niche specialisms that small, particularly third sector providers have are properly being deployed. If those concerns are there, I would share them, but the measures that we have described in terms of how the supply chain is most developed should be able to deal with those concerns.

Q138 Mr Heald: One thing we are finding it quite hard to square is that on the one hand you say, “We’ve got the code of conduct, we monitor it” and you talk on occasions about a market stewardship role—all good things—but then we hear from one subcontractor that when he had not been paid at all since the start of the contract by a prime provider and he sought to challenge this by contacting DWP, he was told that DWP do not speak to subcontractors. How do you square that? If you are not going to talk to the subcontractors, how do you find out if they are being treated wrongly?

Jim Knight: I would be concerned if that was the case. As Alan just said, one of the things that we insist on through our code of conduct is payment for goods and services, including subcontractors, within 30 calendar days. That is there in the main contract that we have with the prime contractor, and if we get evidence that the prime contractor is not delivering on that contract, then—

Mr Cave: That is a breach of contract.

Jim Knight: Yes.

Mr Cave: I have to say that if that is the case I would be very worried about that. Speaking personally, we get a lot of contact from subcontractors. I do not think there is a sense out there that our doors are closed to them.

Q139 Mr Heald: With the code of conduct Working Links have told us that Merlin was being devised because the code of conduct was “largely toothless, was only a contract requirement for prime contractors, allowed no redress for poorly treated subcontractors and did not do enough to raise standards across the supply chain.” Do you agree with that?

Jim Knight: As we have said, there are some things that we put in the code of conduct to try to protect the supply chain, such as payment, but principally the contract between ourselves and the prime contractors is a contract between ourselves and the prime contractors and the code of conduct is within that contract to dictate to contractors how they should behave. What then follows, inevitably, is that to work on the supply chain and to ensure that we have a very healthy market within the supply chain there are some things that you are not going to be able to legitimately agree with in that contract.
between ourselves and the primes and where there is merit in having an additional process. That is where the Merlin Standard comes in. I think that is why it has been relatively well received as an innovation to help us improve the quality of the supply chain.

Q140 Mr Heald: It is designed to deal with an obvious tension, which is on the one hand you want to have your main contractual arrangement with primes, but at the same time the position of the subcontractors needs to be protected to some extent, which is why I was a bit worried when Mr Cave said that he thought it was healthy and a good thing if subcontractors were simply walking away, because if they walk away and they are subcontractors who have useful skills and knowledge and flexibilities that we otherwise would not have, is it not a bit of a disaster if they are no longer in the system?

Jim Knight: Clearly it would be a disaster if everyone were to walk away, but if we have individual contractors who have the confidence not to sign a contract that they are not getting anything out of and they are having to subsidise, but they are robust in their negotiations with the prime contractors—and in respect of that one conversation that I was party to, this is a contractor that is a significant provider in their own right and is doing other work for us, so we are not losing that capacity or that capability—they are just sufficiently confident in themselves to be able to negotiate.

Q141 Mr Heald: In Glasgow we met one company who had been delivering a particular contract for seven years, they did not get the subcontract, and now what has happened is the large prime company has taken over their offices and their staff and so they have lost out. Is that not a bad example to be setting?

Mr Cave: That is an example of competition, is it not? They have lost to competition and the consequence of that is that the prime contractor who ran the competition has had the staff and the—

Q142 Mr Heald: This is exactly the attitude that I was hoping you might push back on. In Scotland one of the things that rather surprised us was that in the first round of Flexible New Deal the three prime contractors who had put in had each named the other two as their main subcontractors, so it did not matter who won, the big boys did. That is what worries us. Some of these small organisations which have done very good work and which are the most innovative in the niches and really delivering on the streets may end up getting parked.

Mr Cave: If you look across the pattern of provision that has come through Flexible New Deal, for the successful that is there. We have a very strong set of prime providers. We have a lot of new players in there, so there will be some casualties from the old ones. That is not to distance ourselves from our market stewardship role but we are deliberately trying to get new entrants, innovation and more creativity into a system. We have a good set of prime contractors, including those who have been experienced from within the UK system and those who bring in some experience from outside, some from other industries. They have a variety of different subcontracting arrangements between them and we think it is a healthier period that we are in at the moment. For some individual subcontractors, if they feel they have been badly treated in that, the combination of the code of conduct, the Merlin Standard and the contract management process we think adds up to a more robust system than you have had in the past. I do not think you can take any one individual element of that and expect it to bear the whole weight of change.

Jim Knight: I would also say that more recent invitations to tender have required details of organisations who will deliver the key element, including subcontractors. If I had evidence that in an area this was effectively being used by primes through subcontractor relationships to carve things up, then I would be concerned that we had not picked that up through the more recent changes we had made in relation to tender processes, but that was not really delivering what I am asking Alan to do in respect of ensuring that we have a healthier market in the supply chain as well as a healthier market in the private contractor area.

Q143 Mr Heald: You will appreciate—and I am sure you do—that one of the great problems with business can be—and we have seen this in all sorts of industries—that the large companies scoop up the little ones and you end up just with the large companies, and then, of course, as a very big government Department you have very little choice as to who you can deal with and that can mean we lose something in the process. That is what we are worried about. Let us just hope that Merlin is a wizard and can put a little bit of magic into the system and save these small contractors.

Jim Knight: I would see it more as a bird of prey than a wizard.

Mr Cave: I absolutely understand the thrust of the question. As you said at the outset this is about a series of balances which we are trying to strike. To illustrate that, in bidding for the second phase of Flexible New Deal we have deliberately widened the field beyond what, perhaps, the purist approach to procurement might say, in order that we do not have a situation where our top tier of providers suddenly collapses down to a smaller number. It is our intention to use that to make sure that we have a very open field.

Q144 Greg Mulholland: I have some questions about vulnerable groups. The Committee were very concerned to hear from ERSA that according to their estimates between half a million and a million people who have barriers to work are not helped at the moment by any DWP programme, including Flexible New Deal. They are not getting any help whatsoever. Do you recognise that figure? If so, what are you going to do about it?

Jim Knight: I am not sure I do recognise that figure. FND providers have responsibilities to deliver a service according to the individual needs of the customers that are referred to them. As we continue
the migration of people off incapacity benefit, obviously significant numbers of them will move into the JSA regime and, in time, will find themselves in FND, and some of them may have more complicated needs and that will change the profile a little. Our expectation is for FND providers to be able to deal with that, at times perhaps working with some of other programmes.

Q145 Greg Mulholland: Effectively you think Flexible New Deal will cater for all people. That is what you are saying.

Jim Knight: All people who are on the JSA regime and referred to them at 12 months. Clearly the Pathways contract is not the personalised employment contract. What we are piloting through PEP is more what you just described in terms of being contracts that and deal with everyone and deal with all of their circumstances, no matter how complex and no matter how profound their health needs might be, for example. That is a very attractive proposition but because of that particular challenge of a single contract being able to deal with everyone’s needs, we do have to test that and make sure it is effective, particularly for those most vulnerable groups.

Q146 Greg Mulholland: Certainly we welcome that the DWP have said they will monitor the effects of Flexible New Deal on specific groups. Are you talking about for specific conditions, specific types of disability? We are not entirely sure on that. We have had evidence from various groups. For example, the National Autistic Society have raised particular concerns about autistic people and the challenges they face. Will you be looking at groups of people, so that you can get a clear picture of where it is working and where it may not be helping vulnerable groups?

Mr Cave: It is important to go back to the basic design of Flexible New Deal. It is not a programme that has an impairment specific stream to it. It is a broad programme for all those who are on JSA at the 12-month point. Indeed, the whole thrust of government policy is towards broader programmes. As such, we are not collecting, for example, management information about particular characteristics in terms of impairment of customers who go through; first, because we think that would be very burdensome, and, second, because often these things change. In the area of mental health conditions, for example, we do not think it is appropriate to ask people to try to label customers with terms when they may not be proficiently skilled to do that, if you think about Jobcentre Plus advisers and so on. There will not be a stream of management information which categorises people by impairment or disability.

Q147 Greg Mulholland: Do you not think that runs the risk of precisely the concerns that you are well aware of and have commented upon in the past, that we will see the hardest to help people, including those with mental illness, “being parked”—to use the phrase. They simply will not get around to helping those people if we are not monitoring how they are getting on.

Mr Cave: To go back to what the Minister said, there are two ways in which we handle that. The first, in the short term, through our contract management process, is to ensure that every customer who goes on to Flexible New Deal and goes to an FND provider has proper time spent with them by that provider, so the case management system is working within the provider. Longer term we see the strategic solution to this being through the accelerator funding model which we are trialling out through the Personalised Employment Programme. That will give a concrete incentive to each provider to continue to work through the cohort of customers, with increasingly harder to place customers with a higher price the more you get through that cohort. We think that is the longer-term strategic answer to that issue.

Q148 Greg Mulholland: We have certainly heard reports of some rather dubious practices, certainly sharp practices by some providers. It is important to say that. The picture that we have built up from some providers is that really they are acting in their own interests. Clearly they are there to make a profit. That is the system and that is what they should be trying to do, but, nevertheless, there is a concern that there are many clients out there who simply will not be putting the effort in to helping those who are much harder to help because that is not going to help them hit those all important job offers.

Jim Knight: The contracts say the contractor has to provide a service for everyone, and, although it does not use the word, that “parking” is unacceptable. Our contract management function is there to ensure that they are delivering on that and that they are using subcontractors appropriately with specialisms to deal with people with particular individual needs. That is the way the system is designed to be able to deal with it. Jonathan Shaw, the Minister for Disabled People, would say that people will continue to be interested to ensure that the vulnerable groups are being properly looked after.

Q149 Greg Mulholland: We have also heard some positive things—I think it is important to say that. There are some prime contractors who are offering subcontractors more than the outcome payment to help the harder to reach into work. Do you have any idea how common that is? Do you not think it is something that perhaps clearly is a good practice that is happening to some extent? Do you not think that could be built into the system?

7 Note by witness: The Personalised Employment Programme (PEP) pilots commencing in March 2011 are part of the new Welfare to Work initiatives announced in the December 2008 White Paper Raising expectations and increasing support—reforming welfare for the future. It will offer support for unemployed customers receiving Jobseekers Allowance and customers with health conditions receiving Employment and Support Allowance secure and sustain employment, within a single, integrated, flexible employment programme.
**Mr Cave:** That goes back to my earlier answer to Jenny Willott. There will be a range of those different arrangements and they will reflect the different delivery models that individual prime providers have. I think there is a danger in singling out one ratio and saying, “That’s the right way to go,” because it might not be in a different delivery model. The reason we keep talking about the Merlin Standard is that it is our best way of making all of these arrangements transparent and visible so that people can look at those and set them alongside outcome data. That is the critical point in all of this. There is no magic about any one set of pricing models; the issue is which delivery model is producing the most outcomes for the widest group of the population.

**Q150 Greg Mulholland:** To go back to the monitoring of outcomes, one concern that has been expressed is that in a sense it is too late because the contracts will be in place. ERSA have said that they think it would make sense to make changes mid contract, because obviously if there is monitoring happening and you then say, “We’re going to leave the contract to run,” what is the point of the monitoring? Would you consider changing the contracts mid term?

**Jim Knight:** Alan will give you the full authorised answer, but my concern about that would be that often the point at which you start to get into trouble with contracts is when you try to change them in the middle, because in the end you end up having to pay for those changes and the negotiating position is not that strong because you are in the middle of a contract. If you design a contract at the outset to allow for changes to be made as it goes along, then you pay for the risk that the contractor was taking in signing it that suddenly the goalposts may be moved. Either way, if you do that, you have to go into it with your eyes open and there is quite a lot of risk that in the end you are going to have to pay for this one way or another.

**Mr Cave:** Absolutely. There are review points in all of our contracts. They are five-year-plus contracts, but there are review points each 18 months so there is the capability there to change. Our hope is that what happens is that the contracts, in effect, become learning contracts, so people look at what is working best and producing most outcomes, and therefore the best results for the provider and the best results for us, because the incentives are aligned. There are points where they may want to make adjustments, but, in a way, I do not want to leave that to review points; they should be making adjustments all the way through to make the best results happen.

**Q151 Greg Mulholland:** You would hope that the changes would happen within the contract rather than changing the contract.

**Mr Cave:** Absolutely. The reason why we have a strengthening contract management function and a supply relationship of one-to-one marking with a provider is to ensure that each provider is looking at what best practice is and what is working best and incorporating those into their own practices.

**Q152 Greg Mulholland:** We have heard from providers—which I suppose is an overall point in terms of this line of questioning—that there is a lack of information about how much it costs to help vulnerable groups, disabled people, people with mental illness into work, and they say that makes it much harder for them to commission help. Is that something the Department is currently looking into, to be able to better advise what it will take to get certain vulnerable groups into work?

**Mr Cave:** In many ways that is why we have bidding processes, because that is the way in which providers put together their best estimate of what will best address the needs of individual groups and we get the best value-for-money outcome from that. Alongside that, there is a great importance to the pilots which are coming upstream. We have mentioned the Personalised Employment Programme; the other one is the Invest to Save pilot, which will be looking at a group that we have not had mainstream provision for in the past, the long-term IB customers. The whole purpose of that pilot and the way in which we are moving to get the bidding process in place is to establish if there is a market clearing price which works with providers but works in value-for-public-money terms as well. That is a whole new area for us.

**Q153 Greg Mulholland:** Clearly we are in recession, so the numbers of people seeking work is greater. We are also, at the same time, seeing more people failing the work capability assessment and so we are seeing a great increase specifically in people on JSA with disabilities. Considering that, is the system able to cope? Are there enough providers out there?

**Jim Knight:** The short answer is yes.

**Q154 Greg Mulholland:** I thought you might say that.

**Jim Knight:** I do not like the phrase “failing the work capability assessment”. I think it is a positive thing to find that there are things you can do rather than being defined by the things you cannot. I do not think it should be regarded as a failure that you are fit for work at all. It is a good thing. We designed, for example, the FND contracts when we had quite a different period in terms of how the labour market was, but we then made adjustments when the expectations were that unemployment would be higher than it is now. While we have been speaking, the latest labour market statistics have been published, and they show that for the first time in 21 months the claimant count has fallen, both for general unemployment and youth unemployment. As we have been saying, the forecast back in April was for 400,000 more people to be unemployed than there currently are, so that capacity is there to be able to deal with that within the FND providers, with those larger numbers. Indeed we had a little bit of complaint when FND Phase One started back in October that there were not the numbers coming through that we might have led people to believe at one point. That is just a sign of success, that we are managing to turn people around and get them back into work more quickly. Then you have the work
capability assessment issue—perhaps a slightly different profile of customer, but, again, that is where the primes need to ensure that their supply chain and their subcontractor relationships are good enough, so that if they do not have the capability and the expertise to be able to deal with those individuals’ needs, they are developing the relationships to do so.

Q155 Harry Cohen: Does the DWP see itself as exercising market stewardship or is it devolving responsibility for this?

Jim Knight: In some senses it is doing both. As I said in response to questions from the caucus on this side, there is a certain amount of trying to ensure that we have a healthy market, so that those niche specialisms are available through subcontractors as well as contractors. So, yes, I am concerned that we do not end up with just a few prime contractors who have absorbed everybody else and that we then do not have a competitive market in which to take this work. Are we devolving responsibility? We are contracting responsibility. We can argue about words, but we remain with ultimately the contracting responsibility. We can argue about words, but we remain with ultimately the responsibility for those customers until they go off our books, they are no longer receiving benefit, and they are back in work.

Q156 Harry Cohen: That is a helpful answer in lots of ways, but looking at the nitty-gritty of it: the auditing, for example, will go the providers; the customer rights to the Employment Related Services Association customer charter; and the subcontractor rights to Merlin. Should the DWP not be slightly more involved in there somehow?

Jim Knight: We are there and, as I said earlier, perhaps when you were not in the room, I am making a point to try and meet with the third sector providers in particular, on a relatively regular basis, just to have my own health check as to how things are going for them. We are not just washing our hands of people once they get beyond 12 months at all and we are not just trying to design it into contract and then not worrying about them. If the accusation was that we are effectively parking them in the private sector so that we do not have to worry about them any more I would strongly reject that. The theology if you like is we have had 12 months with our system and our people trying to sort it out. They are very successful with nine out ten people in helping them get back into work but for those where we have not been successful after 12 months, then it is about time that that customer is given the opportunity of going to somebody else to give them that help, and hopefully that will work out.

Q157 Harry Cohen: I agree with that but I still want to come back to the nitty-gritty. Could the DWP not have some sort of a role in dispute resolution? What if there is a complaint by a whistleblower or something like that? How do you get best practice across in these circumstances if it has devolved some of these other functions? Let me just take the auditing, for example, if that is going to be mainly done by the providers themselves there are not going to be many bad audit reports, are there?

Jim Knight: Beyond the auditors—and it depends what you want to audit—our quality inspectors through Ofsted et cetera auditing quality; we have got 150 contract managers, many of whom are geographically located so they can look at things at a more regional and local level, doing the day-to-day contract management led by the supplier relationship manager, and we have improved the capability and the capacity of those people. We have the provider assurance teams who are looking at the systems that those providers have got in place to ensure that the systems themselves are working, separate from the quality that Ofsted would be looking at. That again, as I said earlier on, has been looked at by NAO and found to be a very robust and strong system of contract management so short of us basically sitting in our office all day every day and duplicating, at great expense to the taxpayer, I do not think we could do much more in ensuring that audit systems and quality are all properly assured by us as the Department for Work and Pensions to deliver for our customers.

Q158 Harry Cohen: Just talk us through. You get a serious complaint that comes through.

Jim Knight: Yes.

Q159 Harry Cohen: And it has come to you because you are the boss in DWP; what will you do with it? Do you just send it back into the system?

Jim Knight: It depends on the nature of the complaint but if it is sufficiently serious then apart from talking to Alan, who has director responsibility for it and, if it was really serious, talking to the permanent secretary about it, I would want the Risk Assurance Division, who effectively are our internal NAO if you like, to be able to investigate it end to end and come back to me and to the Audit Committee of the Department with a report on that serious incident.

Q160 Harry Cohen: That is helpful; thank you for that. On the audit structure that is now in place, customer rights and sub-contractor rights were, I think, a bit of an afterthought and added in after the contracts were agreed. Should they not have been embedded from the start?

Jim Knight: All of these arrangements evolve, they should continue to evolve and we should continue to learn as we go along. Across Government, across the public sector, you are seeing moves to more personalisation. Personalisation involves a stronger relationship with individual customers and being able to listen to individual customers and allow them to help shape services, the introduction of more consumer choice in public services. Those are all things that are evolving and we are evolving them ourselves at the same time. Yes, the contracts were written to try, through things like the code of conduct, to protect the supply chain, but as things have evolved we are developing this Merlin standard which, as I have said earlier, is something that across
government people are looking at as being potentially something that they would want to use as well as an example of best practice. That in turn can develop a better exchange of good practice alongside what people like the industry association does. We just need to be frank about it. You are never going to get it right from day one in such a way that it will remain unchanged for years and years and years because things change and you need to be able to be flexible and evolve the system as you go on.

Q161 Harry Cohen: One last point really in those partnership areas where local authorities have a role. Originally they thought they were going to have a much bigger role and the private contract structure between the DWP and the contractor came into being and those are the parties. I think the aspiration still is for local authorities, particularly in those partnership areas, to have a bigger role. How will that feed into here; will it feed into this?

Jim Knight: I want it to and the City Strategy areas and the Total Place areas— we have got quite a bit of discussion of that in the White Paper—are opportunities for us to join up services better. In particular I am interested in how the Jobcentre Plus services are more locally flexible and locally aligned and that is why I managed to persuade the interested parties that the flexibility pilots that we introduced in the four areas should go forward, so that we can really make the most of that and really see whether or not we can do more with outreach generally. We are pushing more outreach through the White Paper as well to try and make sense of things in different localities and move away from any notion of one size fits all for the Jobcentre Plus service, given that that is the service for the vast majority of people who are jobseekers. But that also applies to our contractors and it becomes slightly more complicated because you have got a central contract function, but one of the challenges to Alan is that his team manages things so that they can be more sensitive to local needs as appropriate.

Mr Cave: One of the things which we have been doing—and I think we spoke about it last year—is to get increasing involvement of sub-regional partnerships, including in London, the Olympic boroughs, as partners in our contracts. We have started that in some areas with the Jobcentre Plus support contract and we are looking to do the same with the Flexible New Deal Phase 2, and with that of course goes a seat at the table in terms of performance management, in terms of making sure that all of the different parts of the partnership locally are working together.

Harry Cohen: That is helpful; thank you very much.

Q162 Chairman: If I may just use a football analogy, we all want a sparkling forward line that has got flair and invention and is banging in goals but it is no good if the back door is letting them in as well. It is that balance between the innovative approach of FND but with the right monitoring and checking back that public money is protected and, crucially, that the customer gets the service that they expect.

Jim Knight: Yes.

Q163 Chairman: Whilst those stories earlier this summer were small in number they were wide in their effect on the morale of people as to the system. Nobody ever hears about the tens of thousands of successful cases; it is the one that goes wrong.

Jim Knight: Yes.

Q164 Chairman: We have a common interest there. Thank you very much; we will obviously be keeping an eye on this and perhaps even returning to it but thank you very much for today.

Jim Knight: Thank you very much. I have enjoyed the first appearance in front of the Committee. Obviously I wish you a restful and enjoyable Christmas and New Year. Good luck in the New Year as well; you never know, it might be a significant one for us. Thank you.

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Note by witness: 13 Total Place pilots were announced in Budget 2009. These pilots were the result of the Operational Efficiency Plan work strand led by Sir Michael Bichard on Local Incentives and Empowerment. The pilots are focused on understanding how public money comes together in a place, identifying where better outcomes can be achieved through joining up and collaboration.
Written evidence

Memorandum submitted by Papworth Trust (EP 01)

ABOUT PAPWORTH TRUST

1. Papworth Trust is a disability charity and registered social landlord, whose aim is for disabled people to have equality, choice and independence. Papworth Trust helps over 17,000 disabled people every year through a wide range of services including employment, vocational rehabilitation, housing and personal support.

2. Our employment service focuses on delivering programmes and opportunities for disabled people to obtain and retain employment, and we also provide career development services to support disabled people to reach their career goals and support employers to retain and develop disabled staff. Papworth Trust has over 20 years of experience of delivering employment programmes for disabled people. During that time, we have delivered a range of services including the Supported Placement Scheme, WORKSTEP, Work Preparation Programme, New Deal for Disabled People and Pathways to Work. From October 2009, we will begin to deliver services for the Government’s new employment programme, Flexible New Deal (FND). To date, our involvement in the delivery of employment programmes has been as a sub-contractor. In 2008–09, we helped over 3,000 disabled people to find and retain work.

3. Papworth Trust welcomes the opportunity to give evidence to the Work and Pensions Select Committee Inquiry into the management and administration of contracted employment programmes, and share with you our thoughts and experience on how to eliminate the potential for fraudulent activity within the system.

Are there sufficient safeguards in place to prevent providers from making fraudulent claims for outcomes they have not achieved?

4. Papworth Trust recognises that whatever system is in place there will always be a degree of risk that it is open to abuse. As such there is a balance to be had between the cost of reducing risk and the cost of the risk itself. We believe that a range of balanced measures can be undertaken by the Government and the employment programme provider to reduce the likelihood of fraudulent activity occurring.

5. Papworth Trust believes there is a need for the Government to urgently develop a national electronic operating system to track when jobseekers move off benefits and into work which is easily updated and readily accessible. We believe the current system is too paper-based, and any changes made are subject to significant time delay before the system can reflect this. We understand the Department for Work and Pensions (DWP) is in the process of moving to a new system, Provider Referrals and Payments (PRaP), but this is yet to happen across all of the programmes. We would therefore call upon the DWP to focus resources into developing this system so that it can be implemented as soon as is practically possible. We appreciate that whatever system is used changes will always be subject to some degree of time lag. However the Government should try to minimise this lag by ensuring it has the most up-to-date technology in place.

Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

6. The level of protection given to employees who raise concerns about the delivery of a contracted employment programme is entirely dependent on the individual employer. Papworth Trust believes this “lottery” must end and that every employer should be encouraged to have a separate quality assurance process and a whistle-blowing policy in place to give staff freedom to raise concerns without fear of reprisal. Ensuring such measures are in place could form part of the evaluation for providers during the tender process.

7. At Papworth Trust, we operate a “public information disclosure policy” which is made available to all members of staff. We are committed to ensuring that any malpractice is prevented and immediately dealt with should the need arise. Papworth Trust employees are encouraged to disclose any malpractice that they become aware of and we ensure that anybody who does come forward is able to do so in a discreet manner and is protected from punishment, victimisation and harassment following their disclosure of information.

8. We strongly believe that all providers should be encouraged to operate similar policies to provide employees with a procedure that allows them to raise concerns about malpractice in the workplace through a fair and discreet route.

Do DWP and the National Audit Office effectively monitor the accuracy of providers’ management information systems, provider performance against targets, and the evidence on which provider payments are claimed?

9. Papworth Trust believes that the DWP is overly dependent on the prime provider or sub-contractor providing the outcome rates of a particular programme rather than relying on independent results. From our involvement in stakeholder meetings with the DWP, we have seen an emphasis placed on providers to give updates on their job outcomes. It would be preferable to use current data from a national electronic operating system, for example PRaP, as the measure of performance to ensure there is always consistency.
Under the current system whereby the provider gives the update rather than Department officials leading and driving targets, we have noticed inconsistencies in the level of monitoring of employment programmes. Whereas one employment programme can be subject to high levels of scrutiny by the DWP, they can have a very relaxed approach towards the management of other employment programmes. We believe this inconsistency should be rectified to ensure that all employment levels are subject to similar levels of management and administration.

10. As mentioned above, Papworth Trust believes there needs to be an electronic system in place which can demonstrate provider performance, level of job outcomes and client information and which can be easily updated and readily accessible. The paper based system which is currently in operation means a significant time lag is incurred when updating information and as such the system is unable to provide accurate information in a speedy manner.

*How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?*

11. Papworth Trust has welcomed the centralisation of contract management in the DWP. Our experience to date has been positive, believing the centralisation has enabled the inspectors to have a more holistic view of the progress being made from programme providers. Under a localised system, the role of Jobcentre Plus can only ever allow for performance to be judged on a local perspective. However, a centralised system allows other measures such as national indicators and competitor performance to be taken into account. We therefore believe centralisation has had a positive effect on contract management and would urge this to continue to be rolled out nationwide.

*Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?*

12. In the past Papworth Trust has been extremely fortunate in being invited to attend all meetings with the DWP alongside our current prime contractor. However, we appreciate that this is not a guarantee and could change in any new relationships we form with new contractors. The present system is entirely dependent on the wishes of the prime contractor, and to a large extent the size and role of the sub-contractor. We would like this to change and believe there should be a clear link between the DWP and the larger sub-contractors, in essence to provide DWP with visibility of the performance across the contract and see what value prime contractors are adding. This could also provide a clear route for sub-contractors to raise concerns and in some circumstances “whistle-blow” should any malpractice occur, thereby removing the need for other systems such as the Merlin project currently being developed.

September 2009

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**Memorandum submitted by the Wise Group (EP 02)**

1. The Wise Group welcomes the opportunity to comment on the management and administration of contracted employment programmes. We are a social enterprise that has worked to support disadvantaged unemployed people to access and sustain opportunities in the labour market since 1983. In 2008 we were named Charity of the Year by the Scottish Council of Voluntary Organisations and were winners at the Social Enterprise Coalition’s Enterprising Solutions National Social Enterprise Awards. In June 2009 we were the only Third Sector organisation to be awarded Prime Contractor status through the Department of Work and Pensions’ commissioning process for Flexible New Deal phase 1.

2. The Wise Group has a track record of developing a wide range of successful welfare to work projects, such as the Intermediate Labour Market (ILM) model and Routes out of Prison. Since 2002, we have delivered part of the Government’s New Deal programmes and are the main provider of New Deal for Young People, Lone Parents and Disabled People and Employment Zone programmes in West Central Scotland and North East England.

3. Our response to specific questions set out by the Work and Pensions Committee is preceded by some general comments and a summary of our main points. We hope the Committee finds our response useful. We would be happy to expand on any of the points raised in person. Contact details are provided at the end of our response.

**Summary of Main Points**

4. As a large social enterprise that derives all its income from tradable activities, we have developed robust business systems in managing diverse projects for a range of funders. We believe that our systems of quality assurance and accountability are exemplary, and would willingly share our expertise with other providers.

5. Having a dedicated Contract Manager ensures consistent standards across providers. Contract Managers have proved themselves to be simultaneously supportive, rigorous and instrumental in helping organisations to improve their delivery of employment contracts. The process of auditing enables us to benchmark our performance, and ensure quality and consistency.
6. Evaluation of the Flexible New Deal (FND) encompasses monitoring of subgroups of customers and examining how the FND serves their specific needs is vital in ensuring that the needs of those customers who are most difficult to reach and those facing greatest challenges are taken into account and proactively addressed.

7. Sporadic conversations with clients (beyond exit interviews, inevitably capturing only the views of those who “stay the course”) are problematic. Greater use of customer satisfaction surveys and mystery shopping results could be useful mechanisms to benchmark performance, and reduce tendencies to “cream”.1

8. Dialogue needs to be maintained to offset any risk that DWP will become too remote and lack understanding of local needs and contexts.

9. Respective information technology (IT) systems could be integrated in order to streamline claims and to audit the performance of providers. This would not only make dealing with changes in circumstances easier, but would make the verification of results claimed by respective employment providers relatively easily.

10. A Customer Charter would be useful and should stipulate what customers can expect and set out the responsibilities of respective entities, highlighting what government and the provider are doing to help each customer into work and what is expected of the customer.

11. The Wise Group’s Code of Conduct mirrors the DWP Code of Conduct Values and Principles, and governs our subcontracting approach. Treating partners with fairness and integrity is at the heart of our business policies and practices.

12. We welcome the efforts of DWP to embed localism into its commissioning practices. We welcome the prime contractor model as useful in not only reinforcing localism, but also building capacity amongst smaller organizations in the Third Sector.

GENERAL COMMENTS

13. As a large social enterprise that derives all its income from tradable activities, we have developed robust business systems in managing diverse projects for a range of funders. In our experience of managing employment contracts, there are rising standards across the board. We would be happy to work with and to promote further improvement in quality and performance with Third Sector organisations. We believe that our systems of quality assurance and accountability are exemplary, and would willingly share our expertise with other providers: we are often cited as an example of good practice by DWP and requested to speak with other providers (for instance, our Progress to Work Link Up contract for the Forth Valley).

14. Our response to this inquiry is based on many years experience delivering employment contracts for DWP and other agencies. We appreciate open communication about any problems that might arise, and welcome the manner in which DWP has worked with us to find and implement solutions. Having a dedicated Contract Manager, for example, ensures consistent standards across providers. Contract Managers have proved themselves to be simultaneously supportive, rigorous and instrumental in helping organisations to improve their delivery of employment contracts.

15. In the competitive market for employment service contracts, it is worth recognising that Third Sector organisations such as the Wise Group often engage with the most disadvantaged groups warranting a more integrated and individualised approach. As Scotland’s Enterprise Minister has observed, the Third Sector in Scotland “connects with some of the most vulnerable people in society”.3

16. We believe that a commitment to the most disadvantaged characterises Third Sector organizations such as the Wise Group and is reflected in our value base. Our value base in turn shapes the way in which we undertake all our operations, including our rigor in accountability, transparency and the manner in which we manage our supply-chains.

ANSWERS TO SPECIFIC QUESTIONS

Are there sufficient safeguards in place to prevent providers from making fraudulent claims for outcomes they have not achieved?

17. In our experience, some employment programmes incorporate more rigorous safe-guards than others. The DWP, for example, conducts regular performance reviews, but the regularity and extent of these depend on the trust an organisation has earned with DWP. This means that the rating of respective providers impacts on how often they are audited (the Wise Group has built up a positive and open relationship with DWP, and has been given full assurance in the majority of the programmes we deliver).

18. Despite this inconsistency in safeguards and processes, the Wise Group has proactively developed processes that are aimed at preventing fraudulent claims. Wise Group staff are not driven by the “carrot” of individual bonuses and we do not operate a financial incentives system. Our management of employment

1 Finn, 2007: 3
2 House of Commons Work and Pensions Committee. 2009: 4
3 Cited in Scottish Government, 2008
contracts is premised on a high degree of corporate governance and is based on our values. The Wise Group has a strong ethical code and zero-tolerance approach to fraud. We expect our staff to act with honesty and integrity at all times to create a safe environment for staff and customers.

19. The Board of Directors and Senior Management Team maintain an anti-fraud culture and fraud prevention is incorporated into strategic plans, company values and behaviours. This is communicated to staff in the staff handbook; and is reflected in all our agreements with subcontractors, partners and suppliers.

20. The Wise Group policies and practices demonstrate that we have the utmost commitment to safeguarding public funds against misleading claims for payment and have systems in place to notify DWP immediately if we have reason to suspect that any serious irregularity or fraud has occurred or is occurring. Our Fraud Prevention Policy and Whistle Blowing Policy (see below, question 2) outlines staff responsibilities on how to deter fraud, procedures on raising suspicions and actions to be taken if fraud is suspected.

21. The Wise Group’s Corporate Quality and Compliance Unit (QCU) that reports to the Director of Strategic Planning, is responsible for auditing all aspects of our provision (both our direct and indirect delivery). This is an in-house quality assurance team, independent of specific projects, that centrally manages our Internal Audit service. It is responsible for a continuous review of internal control systems. The QCU works with the Programme Manager to conduct quality assessment and production of Quality Development Plans.

22. Further elements of our programme management processes worth highlighting are:

— The QCU undertakes an independent assessment of the integrity of all evidence to support delivery and achievements. For example, our internal architecture means that we do not submit claims until we receive the “hard evidence” of a client’s outcome in the form of an employer declaration or a copy of a permanent contract. Spot checks are carried out with employers, signatures are verified and evidence is cross-checked.

— Remote audits are undertaken on a monthly basis by randomly selecting customers. The QCU has access to real-time customer data and conducts remote audits on customer information via the Customer Record Management (CRM) system.

— All provision is managed using identical systems (regardless of prime or subcontractor status), creating a fair, accurate and consistent assessment of provision.

— Performance information, quality assessment and customer feedback is collected and analysed on a monthly basis by the Programme Manager which allows immediate response to performance or quality issues.

— Any non-compliance is reported directly to the Programme Manager for further action.

— The QCU conducts a bi-annual quality assessment using the Common Inspection Framework to generate a Quality Development Plan detailing actions to address areas of improvement and build on strengths. This forms part of the annual self-assessment process and Contract Management Review.

— The QCU undertakes internal audits to generate a risk rating for the Wise Group and our subcontractors, informing the frequency of future audits. Internal audits ensure DWP Contract Terms and Conditions are met in relation to delivery, reporting and record keeping, financial claims and evidence requirements.

— Internal audits are followed by an Action Plan confirming good practice, highlighting areas for improvement, risk ratings and necessary actions. Both the Wise Group and our subcontractors are required to respond to action plans to confirm compliance and timescales for completion.

— The responsible person then has two weeks to rectify and address recommendations made by QCU. The report is then returned to QCU detailing the completed actions and remedial actions required, and timescales for undertaking them. All remedial actions are inspected during the follow-up visit to ensure they have been carried out. Service Level Agreements (SLA) specify procedures for contract compliance, audit and monitoring arrangements.

Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

23. The Wise Group believes that its own internal systems provide sufficient protection for employees if they felt the need to raise concerns about delivery of an employment programme. For example, the Whistle Blowing Policy (found in the staff handbook) outlines the protection for staff and customers who raise allegations. Section 4.2.2 of the Wise Group’s Whistleblowing Policy states that:

Where possible the concern should be raised in writing, but a face to face meeting or telephone discussion may be requested to raise the concern in the first instance [. . .]. All relevant details of the incident, names and dates etc., should be specified and any other evidence to support the concern should be presented in full.
24. Section 5.1 subsequently states that:

The relevant Head of Division and HIA will carry out an investigation into the concern. This will include compiling full written records and evidence, carrying out interviews and reporting.

25. Allegations are then investigated in line with our Fraud Prevention Policy.

26. If the Wise Group was to become aware of a problem involving other contractors we would approach DWP directly, via the Contract Managers.

27. We do note, however, that within the market for employment contracts there is no clearly defined formalised system, and perhaps an Ombudsmen (a new role, or incorporated into existing Ombudsmen schemes) would be a useful independent mechanism for concerned employees of providers to utilise, anonymously if necessary, outside their own organisation. Given the existence of the Parliamentary and Health Service Ombudsman, perhaps a simple dedicated email address or hotline might suffice.

28. We feel that providers that operate with integrity and the appropriate incentive systems for staff in place will welcome steps taken to facilitate reporting of irregularities.

Does DWP’s contract management approach ensure the quality of service received by customers is commensurate with the level required under the contract terms?

29. The Wise Group recognises that contract management of complex services such as employment support is challenging and entails inherent trade-offs. Navigation between competing objectives required by commissioning agencies (such as DWP) was highlighted by recent research into contracted out welfare to work provision in the US. This research reveals a “tension between regulation, transparency and flexibility”. There seems to be balance to be struck between flexibility and control, with increased oversight leading to reduced flexibility.

30. It is therefore not surprising that there are certain aspects of the contract management approach that we welcome as they will ensure quality of service to customers as required in contracts, but that there are also areas where we have reservations.

31. DWP has said that its evaluation of the Flexible New Deal (FND) will encompass monitoring subgroups of customers and how the FND serves their specific needs. This is vital in ensuring that the needs of those customers who are most difficult to reach and those with greatest challenges are taken into account and proactively addressed. As highlighted above, the Wise Group has 26 years of experience in working with people facing multiple barriers to employment and we provide tailored support that takes into account the complexity of their circumstances and helps them move forward constructively.

32. The research just cited underscores the importance of skilled contract managers. This is an area where we feel that DWP’s contract management approach is entirely appropriate, efficient and positive. We have developed good relations with DWP Contract Managers, which allows constructive criticism and dialogue, rather than adversarial surveillance which would generate secrecy and suspicion.

33. Similarly, we support the requirement for Contract Managers to agree and review areas that respective providers need to focus on for improvement (as highlighted through self-assessment and external inspection). Annual Self-Assessment Reviews will incorporate description of the context in which the provider is operating, and providers will grade themselves in relation to the questions set by Ofsted and Estyn’s Common Inspection Frameworks. Self-Assessment Reports will be accompanied by a Development Plan that demonstrates how action will be taken in terms of improvements, and will be monitored by DWP’s Contract Management processes. If a provider is deemed to have inadequate performance, they will be re-inspected in 12–18 months and offered tailored support prior to this. DWP Contract Managers will also validate the veracity of provider annual reports. These various provisions seem to incorporate sufficient constructive engagement that will foster continuous improvement, while delivering rigorous scrutiny of performance.

34. We have reservations, however, that while the Star Rating system is vital for increasing the performance of providers and helping customers select amongst providers, the emphasis on voluntary disclosure undermines the system’s effectiveness. Essentially, Star Ratings are four-measure scales encompassing performance outcomes (including job outcomes, 70% of the rating), quality of provision (20%) and compliance and contractor issues (10%). Inspection results will be incorporated into Star Ratings—this will go some way to enhancing the dependability of the Star Ratings. Further, as discussed above, the Wise Group has implemented a structure of checks in order to ensure our results and reports are accurate, and again we would be willing to inform other providers about these systems to ensure their own self-reporting is reliable.

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4 Finn, 2007: 3
5 House of Commons Work and Pensions Committee. 2009b: 10
6 Finn, 2007: 3
7 House of Commons Work and Pensions Committee, 2009b: 11
8 DWP quoted in House of Commons Work and Pensions Committee, 2009a: 38
9 DWP quoted in House of Commons Work and Pensions Committee, 2009b: 38
10 House of Commons Work and Pensions Committee. 2009b: 11
11 DWP quoted in House of Commons Work and Pensions Committee, 2009a: 39
35. Given our reservations about the extent of reliance on self-assessment, we are pleased that the DWP has said it will work with HMIe in Scotland (Ofsted in England and Estyn in Wales) to construct a model of inspection, with inspections starting in April 2010. All inspection reports will be published on the external websites of respective inspectorates. This is a positive move, enhancing transparency.

36. Moreover, while customer feedback is provided to DWP (except for the Employment Zone), the current system encompasses only sporadic conversations with clients (beyond exit interviews, inevitably capturing only the views of those who “stay the course”). Perhaps more revealing would be conversations with those who leave their programme early, particularly if their reason for doing so was related to quality of the provider. We feel that greater use of customer satisfaction surveys and mystery shopping results could be useful mechanisms to benchmark performance, and reduce tendencies to “cream”. Skills Development Scotland, for example, asks to meet with our clients on relevant programmes.

Do DWP and the National Audit Office effectively monitor the accuracy of providers’ management information systems, provider performance against targets, and the evidence on which provider payments are claimed?

37. The Wise Group has a long experience of being audited by various public sector funding bodies, including the European Commission and European Court of Auditors. Our reflection on the DWP and National Audit Office monitoring systems is based on this background.

38. We welcome the process of auditing—it enables us to benchmark our performance, and ensure quality and consistency. In general, we have not found this process to be overly onerous. Instead, we appreciate that an audit can be a helpful undertaking that assists us to refine internal systems, effectively monitor provider performance in relation to targets and ensure the veracity of evidence for claims. In particular, DWP undertakes a “walk through” of our processes, talking to Wise Group operations staff and undertaking quality assessments. In our experience, these activities have become increasingly thorough. For example, they are undertaken on-site at our offices—rather than simply via consideration of paperwork submitted by a provider. DWP also selects a random sample to undertake a quality assessment (an “ICQ”).

39. The Wise Group is, however, aware that problems can arise whereby case loads are kept “live” by other providers with the intent of excluding their competitors from serving a customer and claiming a result. In theory, providers share information about case loads, but we feel this intention is overwhelmed by the realities of competition in the welfare-to-work marketplace. This highlights an area where thorough monitoring and scrutiny of each provider’s customer records should reduce any capacity for providers to act counter to the objectives of the contract (which would be ultimately detrimental to customers).

How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?

40. We feel that centralising contract management with DWP, rather than JCP, makes sense. Employment service providers are required to be active partners with JCP, a relationship which is enhanced by removal of any sanctioning of employment service providers requirement that JCP may have previously been tasked with.

41. Dialogue needs to be maintained with local JCP offices to offset any risk that DWP will become too remote and lack understanding of local needs and contexts. DWP staff need to know what is happening locally, the configuration of the local labour market and how local conditions impact performance. The Wise Group now deals with a DWP team based in Edinburgh, which demonstrates that the Department has addressed previous concerns surrounding a lack of local understanding. Moreover, the location in Edinburgh means our DWP team is close at hand, and can visit the Wise Group at any time they desire.

42. There is a risk, however, that the DWP and JCP have become too isolated from each other. We can identify scope for better liaison between the two agencies, for example, providers need to know who to speak to, and this also applies to internal inter-departmental communications. In order for the customer experience of outsourced programmes to be as effective and valuable as possible, the Wise Group recommends tripartite meetings between respective providers, DWP and JCP.

43. Finally, respective information technology (IT) systems could be integrated in order to streamline claims and to audit the performance of providers. We highlight research into the propensity for customers to report their change of circumstances to necessary agencies. Recent research has found that customers experience confusion regarding what they need to report and to whom: 40% of respondents to a recent large scale survey had “very little or no knowledge of what were the reporting requirements [and] nearly 50% of claimants believe that if they inform one agency of a change in circumstance that agency will inform the others”. While we are cognisant of the significant resource implications entailed in integrating IT systems, these findings highlight scope for a reliable system of IT whereby benefit administering agencies are able to link to each other’s systems. This would not only make dealing with changes in circumstances easier, but would enable verifying results claimed by respective employment providers to be conducted relatively easily.

12 House of Commons Work and Pensions Committee, 2009b: 11
13 Finn, 2007: 3
14 Finister et al, 2009: 3
Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

44. The Wise Group feels that a Customer Charter would be useful, particularly as part of a welcome pack supplied to customers when they first engage with a provider. It should stipulate what customers can expect and set out the responsibilities of respective entities, highlighting what government and the provider are doing to help each customer into work and what is expected of the customer. We recommend the JCP Customer Charter as a good model of this.

45. Any such document needs to be in an accessible format, avoiding jargon and intimidating language. As with any additional paperwork, there is a risk of over-burdening a customer, even alienating them by providing an overwhelming quantity of documentation. This, of course, is a consideration that needs to be taken into account by all providers in preparation of welcome packs and other forms and information.

46. As part of our delivery of Flexible New Deal Phase 1, we have prepared our own Customer Charter. This is attached as an Appendix for information.

47. An associated issue is that of customer grievances. All organizations who bid for the FND had to demonstrate that they had robust systems of solving customer grievances and complaints. DWP will monitor these processes (via Ofsted and Estyn in England and Wales respectively). The Wise Group welcomes the fact that customers have the scope to raise any complaint with DWP’s independent complaints reviewer (the Independent Case Examiner), and, ultimately will be able to take their issue to the Parliamentary and Health Service Ombudsman.

48. The Wise Group is committed to dealing responsibly, openly and professionally with all complaints regarding the service received from Wise Group or from our subcontractors. We operate a four stage complaints procedure ensuring that we take customer needs seriously and provide a fair and effective service at all times:

— All customers are issued with our grievance procedure when they start on programmes.
— The Wise Group seeks to resolve any customer issues in an informal manner in the first instance, through discussion with the individual and a named project representative.
— If unresolved, the grievance is then escalated and the Programme Manager responds to the customer with a proposed solution.
— The customer’s JCP Personal Advisor is advised of any difficulties, with all complaints recorded and made available to DWP through Supplier Performance Reviews.

49. The existence and utility of such systems are integral to the rationale of a Customer Charter, and we welcome the latter as a means to reassure customers of their rights and of the existence of systems in place to support them in any circumstance.

50. Customer entitlements need to be monitored through DWP’s systems of contract management. This is discussed in the answer to the next question.

Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?

51. Prime contractors are responsible for the performance of subcontractors, and will consequently need to take responsibility for addressing poor performance and managing any issues as they arise.15 The Wise Group is a prime contractor for the FND Phase 1 in the South of Scotland. We are responsible for the performance of our sub contractors, and as such they are subject to monitoring and auditing of their performance.

52. As a prime contractor, we are able to contact a single manager at DWP. This is very useful, and conducive to collaborative positive relations in which problems are dealt with quickly and constructively. We also welcome the provision of timetables of inspection now provided by DWP (previously it was ad hoc). This means a prime contractor can notify their subcontractors.

53. The Social Market Foundation has warned of the risk that prime contractors will become single customer buyers of the subcontractor provision, undermining the market’s operation.16 This risk, while valid, will partly be offset by DWP’s expectation that prime contractors will provide advance payment to subcontractors.17 Further, DWP has said that it has incorporated measures into the contracting process that prevent unreasonable transfer of risk to subcontractors. These include requiring that tenders from prime contractors demonstrate funding agreements and outcomes, and a signed letter of intent that subcontractors understand the terms of delivery.18

54. DWP’s system of contract management is logical: contracts will be managed by DWP’s National Supplier Relationship Management Teams and Third Party Provision Managers at district level.19 Providers will submit monthly performance reports and will be reviewed formally on a quarterly basis on

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15 House of Commons Work and Pensions Committee. 2009b: 4
16 Mulheirn and Menne, 2008
17 DWP quoted in House of Commons Work and Pensions Committee. 2009a: 41
18 DWP quoted in House of Commons Work and Pensions Committee. 2009a: 40
19 House of Commons Work and Pensions Committee. 2009b: 4
both performance and quality. The DWP’s Code of Conduct aims to ensure that supply chains perform well. DWP is the steward of the Code of Conduct and thus will monitor and enforce its terms. If this is rigorous and quality can be enforced, we expect that this Code of Conduct will be a useful mechanism of stipulating that subcontractors undertake what they say they will do.

55. The Wise Group’s Code of Conduct mirrors the DWP Code of Conduct Values and Principles, and governs our subcontracting approach. Treating partners with fairness and integrity is at the heart of our business policies and practices, and we ensure adherence to these principles through the following key processes:

- Open Recruitment process, using an open process to recruit subcontractors by advertising on Wise Group website.
- Ensuring Expressions of Interest are fairly scored and short-listed.
- Entering into negotiations with preferred suppliers and notifying those not short-listed within 14 days.
- Service Level Agreements (SLAs), to be finalised upon award of contract (with performance targets; legislative and policy standards; contract compliance; funding and payment mechanisms).
- Each subcontractor/supplier will receive a Guidance Pack containing Quality Calendar; Code of Conduct; Performance Management Procedures; Staff Learning and Development Planner; and DWP supporting information (for example, Terms and Conditions, DWP Code of Conduct, JCP Customer Charter and legislative requirements).
- Performance will be monitored and managed across the supply chain using a web-based performance management tool, and in open dialogue with subcontractors (such as monthly planned performance meetings between the Contract Manager and subcontractors).
- Scheduled Quality Assurance activities will be agreed annually and reviewed at monthly meetings, with Wise Group audits to ensure contract compliance, identify and mitigate risks of under-achieving, and highlight quality or capacity issues.
- Risk ratings will inform the frequency of monitoring support.
- We will establish clear lines of communication with subcontractors/suppliers managed by the Provision Manager. We will seek written feedback from subcontractors on our role as Prime Contractor and meeting their needs in terms of support, financial reward and parity.

56. The Contract Manager will ensure any issues are resolved as quickly as possible. If a dispute arises between the Wise Group and a subcontractor that cannot be resolved through the normal complaints process, we will instigate through our Dispute Resolution procedure, outlined in the Service Level Agreement. This involves a number of stages within set timescales: information exchange, meetings, mediation and, if no resolution is agreed, then ultimately litigation. In addition, as discussed earlier in our response to question 1, the Wise Group’s internal Quality and Compliance Unit (QCU), independent from delivery operations, will measure compliance with DWP’s Code of Conduct on a bi-annual basis.

57. Finally, we welcome the efforts of DWP to embed localism into its commissioning practices. We welcome the prime contractor model as useful in not only reinforcing localism, but also building capacity amongst smaller organizations in the Third Sector. We welcome DWP’s work with the Office of the Third Sector as a means to help Third Sector organisations (such as ourselves and those in other providers’ supply chain) capitalise on the opportunity presented by contracting out of employment contracts. Third Sector organisations are, as discussed above, adept at supporting clients with individualised assistance.

References


20 House of Commons Work and Pensions Committee. 2009b: 4
21 House of Commons Work and Pensions Committee. 2009: 4
Memorandum submitted by the RNIB Group (EP 03)

INTRODUCTION

The RNIB Group is the product of the union between the Royal National Institute of Blind People and Action for Blind People. The union represents the largest charity concerned with the welfare of blind and partially sighted people. The RNIB group both delivers services eg Workstep contracts, access to work assessments etc and also campaigns for improvements in the existing funding and service provision.

In responding to the Select Committee’s investigation priority has been attached to answering certain questions in greater depth than others.

QUESTION 1

Are there sufficient safeguards in place to prevent providers from making fraudulent claims for outcomes they have not achieved?

Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

1.1 The RNIB group has not encountered dishonesty in the operation of the commissioning strategy itself but is aware of the complaints being made by other individuals in respect of the operation of other organisations. We would support a “whistleblowers charter” and other measures that provided protection for those people drawing attention to the misuse of public money.

1.2 Of greater concern to us and explored in detail within this response is the performance of DWP disability employment programmes and the impact of their allocated budgets in resolving the objective of the DWP green paper that “no (is) one written oV.”

QUESTION 2

Does DWP’s contract management approach ensure the quality of service received by customers is commensurate with the level required under the contract terms?

2.1 The DWP contract management approach is based upon a “black box” approach to provider organised employment support interventions. Whilst the focus upon a job is welcome there remains certain key weaknesses to this approach. These weaknesses are namely ensuring that everyone is treated fairly and secondly ensuring that those people who do not secure a job outcome still make measurable progress towards the open labour market. The numbers of individuals involved may be considerable; nearly half of those on the Work Choice programme are unlikely to progress into unsupported employment.

2.2 The RNIB group could best illustrate this with reference to the new Work Choice programme. Evidence that one group may be being disadvantaged over another group will not become available until the autumn of 2009. These results will then feed into an evaluation strategy for the programme but this will not be available until early 2010. By this stage prime providers will have already submitted their tenders.

2.3 The question thus arises—how can the new contracts (and future contracts) offer the best safeguard for a quality service to clients (pending any modifications that the evaluation strategy may identify as being necessary)?

2.4 What constitutes quality?

Ideally quality should be flexible enough to recognise the range of clients being supported yet specific enough for an individual to benefit. Quality should be tangible and easily understood by all. It should be obvious whether it is present or absent and thus recognisable to an observer. Providers should find quality interventions appropriate to the client, simple to administer and not onerous to record.
2.5 Indicators of quality—recommendations for making improvements

RNIB would contend that in a new market that emphasises customer choice the client should receive guidance on what constitutes a quality service. Thus they can form judgements of their treatment, raise complaints if necessary and even exercise the “right to control” and change providers, where this is an option open to them. Quality should thus be derived from the customer’s viewpoint and be clearly linked to the service standards expected of providers. Therefore the first indicator of quality ought to be a commitment to customer feedback for clients to report their experiences to those responsible for service review. In addition a whistleblowers charter should be established to give clients the confidence to speak out in the event of them being given a particularly poor service.

2.6 The second indicator of quality ought to be the provision of information and communication media appropriate to the client’s needs eg British Sign Language, accessible formats such as Braille, audio or large print, easy read, Makaton etc.

2.7 A job outcome is a very real sign of quality but there must be other assessed indicators or standards too. This is particularly true in terms of the progress made by those people who do not obtain a job and even amongst the top performing providers it is likely that these clients may represent the largest single cohort.

2.8 The recent research to underpin the development of a distance travelled toolkit (Purvis, A., Lowrey, J., and Law R, DWP Research Report 566, 2009) promoted a five step A–E system of measuring client progress. One option could be to fix some standards around the quality of interventions by providers that would best enable clients to move through these stages.

2.9 At the outset of the programme is an assessment of the client to decide which of the three modules and possible menu of interventions would best meet their needs. Following this, marking progress over these A–E stages will depend in turn upon staff being able to make valid judgements on progress. Consequently staff training, highlighted in the above report as a key success factor, ought to be the third benchmark of quality.

2.10 The first transition ie A to B is linked to client’s own recognition of their support needs. Thus an action plan willingly entered into by clients, in which they have chosen from an appropriate menu of “life skill” support options, ought to be established as the fourth benchmark of quality. The “life skills” that may be appropriate could or should include the following: possible identification of role models, peer support, peer mentoring, independent living skills (eg around mobility training), handling money, basic skills support such as literacy, numeracy etc.

2.11 The second transition from B to C is linked to the client making initial progress. The acquisition of a disability specific skill by the client that is applicable to a working environment could constitute evidence for this transition and the training input provided. Examples of these skills could include accessing documents ie through the use of speech activated software, communication eg through lip reading, mobility eg use of public transport etc.

2.12 The third transition from C to D is linked to the client making sustained progress. The ability of the client to independently produce a CV could constitute evidence for this transition and the training input provided.

2.13 The final transition from D to E is linked to clients routinely demonstrating the necessary level of competence to acquire a job. The ability of the client to independently job search and complete a job application form could constitute evidence for this transition and the training input provided.

2.14 All transitions made should be recorded in the client action plan. The final and crucial evidence of quality should be a job outcome. The possibility of employment being an option should be raised at the outset eg through the aforementioned discussion of role models conducted at the initial assessment (if needed).

2.15 In summary quality indicators should comprise:

- A system for customer feedback into service delivery review.
- Staff training eg Vocational Rehabilitation standards, NVQ advice and guidance standards, etc.
- Routine availability of appropriate communication and information formats specific to clients needs.
- An action plan that includes access to life skills and basic skills support.
- Acquisition of disability specific skills that enhance employment prospects (if needed).
- Completion of a CV by the client.
- Acquisition of job searching and job application skills by the client.
- A job outcome.
QUESTION 3
Do DWP and the National Audit Office effectively monitor the accuracy of providers' management information systems, provider performance against targets, and the evidence on which provider payments are claimed?

3.1 The RNIB group is aware that the Audit Office is conducting its own investigation into this issue and we look to this investigation to determine the answer to this question.

QUESTION 4
How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?

4.1 It is RNIB's perception that the change has meant that there is now little understanding of the needs of the client group on disability programmes within DWP Commissioning. The arm's length nature of managing contracts raises the need for disability awareness training and outreach work to be prioritised for those responsible but especially the many new recruits now doing this work.

QUESTION 5
Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

5.1 The RNIB group supports the Claimant’s Charter as proposed by Citizens Advice, CPAG, Disability Alliance and Gingerbread, and in particular, the creation of an Employment Services Ombudsman to oversee and adjudicate on disputes between individual claimants and either Jobcentre Plus or external employment support providers, on issues that are not dealt with through formal review mechanisms, ie over issues of levels and standards of services provided. We feel that such an approach is important to protect the position of potentially vulnerable claimants when engaging with employment support services.

5.2 The RNIB group feels that an Employment Services Ombudsman could adjudicate in situations in which a person feels that they have not received the support that is needed, or that they feel the support offered has been inappropriate or ineffective, or they do not agree with the actions or directions that are being imposed upon them. In such a way, we could ensure good practice is developed and spread through such provision, which in turn would assist Government in better understanding the efficiency and efficacy of these multi-million pound contracts. It could also help to rate the performance of contractors, as those delivering high quality services would be far less likely to be the subject of Ombudsman complaints or investigations.

QUESTION 6
Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?

6.1 A commissioning strategy based upon regionally let contracts for pan disability services doesn’t favour low prevalent impairment groups such as people with sight loss that require a specific package of measures (that on many occasions can be expensive) and access to support from an experienced provider.

6.2 Questioning Government on safeguards for the fairness of the commissioning strategy in August this year produced the following written response from the Minister for Disabled People: “It is a high level strategy and, as such relevant specific data was not available for the Impact Assessment. We did however make it clear that as the strategy evolves we would carry out further impact assessments as appropriate.”

EVIDENCE OF THE CURRENT PROBLEM
1) Low levels of engagement and outcomes for people with sight loss on Government programmes

6.3 New Deal for Disabled People
The data obtained from DWP on 15 September 2009 covered the period from July 2001 to May 2009 for starters and up to February 2009 for job outcomes. It shows that there were 326,370 individual starters during this period of whom 4,730 had difficulty seeing, representing only 1.5% of the total. There were 202,240 individual jobs of whom 2400 were achieved by people whose primary condition was “difficulty seeing,” representing only 1.12% of the total. The conversion rate for the programme as a whole was 62% as against only 51% for blind and partially sighted people.

6.4 Pathways to Work
In response to a request for data information was sent by DWP for starts on the Pathways to Work programme up to January 2009 and for job outcomes up to October 2008.

“The statistics released on 25 June 2009 for Jobcentre Plus Pathways to Work indicated that there have been: 1,054,120 starts to Jobcentre Plus Pathways to Work of which 3,640 were by customers whose main condition was ‘diseases of the eye and adnexa’. 177,610 job entries from Jobcentre Plus Pathways to Work of which 510 were by customers whose main condition was ‘diseases of the eye and adnexa’.” DWP 25/6/09
The statistics released on 7 July for Provider-Led Plus Pathways to Work, which included programme starts up to January 2009 and job entries up to October 2008 indicated that there have been:

132,150 starts to Provider-Led Pathways to Work of which 870 were by customers whose main condition was “diseases of the eye and adnexa”. 11,210 job entries from Provider-Led Plus Pathways to Work of which 70 were by customers whose main condition was “diseases of the eye and adnexa”. DWP 11/08/09

The information supplied by DWP put the rate at about 0.66/0.63 of those engaged/job entries by providers as against 0.34/0.29 for Job Centre Plus pathways provision.

6.5 Our own preliminary analysis suggests that the Government is achieving around a tenth of the levels of engagement that might be expected.

6.6 Workstep

The latest data RNIB have obtained on Workstep is based upon figures from December 2008. At the end of December 2008, there were 13,480 individuals in supported employment on Workstep. Of these, 720 were recorded as their primary condition being a visual impairment. Note that for 2,060 records, no condition is recorded and it is possible that some of them will have a visual impairment.

“For Workstep, we do have medical condition information which includes the number who record their primary condition as being ‘visual impairment’. Note that we have no medical information for approximately 20% of participants. Of the 13,700 who were in supported employment at the end of 2008–09, 720 were recorded as visual impairment being their primary condition.” DWP 11/08/09

6.7 Work Choice specialist disability employment programme

The equalities impact assessment of the Welfare Reform White Paper contains three paragraphs on SDEP (Work Choice) and holds out no prospect of data on specific impairment groups for two years or more, so in the interim there are no safeguards on whether any group is failing to obtain fair treatment. The Impact Assessment published in February 2009 identifies a risk that, “a better resourced and reformed programme does not target the support it provides at groups of disabled people with the greatest need for the support it provides.” However the mitigation offered is simply that the new programme will be less prescriptive and more flexible.

2) the findings of already published research

6.8 The Third Sector Partnerships in Public Services Action Plan: echoes RNIB’s own analysis.

“Evidence shows that commissioning specialist services at the local level can sometimes limit the ability of specialist third sector providers (along with specialist providers from other parts of the independent sector) to bid for contracts. (paragraph 50, page 20)”

6.9 Welfare to Work reform: the third sector’s role—4 February 2009:

“There is strong evidence for the sector’s ability to engage the hardest to reach and it unlikely that the Government’s aspirations for reaching these people, such as those in receipt of Incapacity Benefit will be achieved without the strongest involvement of the sector. (page 3)”

CONCLUSION

6.10 The most vulnerable client groups are having to engage (or not) in programmes driven by accountants and focused upon hard outcomes. Combined with their “non interference in the market”, DWP allow Prime Contractors to either actively or passively, promote their services to the “easier end” of the market. Indeed, if a client is more expensive to place into employment than another, why would they choose more difficult clients—they are businesses driven by shareholder profits.

6.11 It is our own experience that the commissioning strategy is having a detrimental impact upon the levels of engagement and consequent outcomes for vulnerable client groups eg people with sight loss and the viability of those organisations who provide specialist employment services to them.

RECOMMENDED POLICY RESPONSE TO REMEDYING THE DISADVANTAGE FACED BY CERTAIN GROUPS

6.12 The marketplace for commissioning could exist in two stages. In the first stage competitive tendering would be the route to select prime-contracting consortia in each region. In the second stage each successful consortia could be required to negotiate for impairment specific support provision with a preferred supplier. The preferred supplier could be established by DWP based upon a quality assessment against the capabilities framework.

6.13 This approach would have the advantage of ensuring that the contracting process was based upon both price and equality. It would also satisfy the requirement of the EU procurement directive. The EU procurement directive (2004) states that “Contracts should be awarded on the basis of objective criteria
which ensure compliance with the principles of transparency, non-discrimination and equal treatment and which guarantee that the tenders are assessed in conditions of effective competition”. (Paragraph 46, 2004/18).

6.14 The Government has on occasion departed from a pan-disability approach in recognition of the need to introduce specific measures to address the disadvantages faced by particular impairment groups eg Public Service Agreement 16, the new Learning Disability Employment Strategy etc. Clearly the Government is interested in what works. Indeed the principle of contestability enshrines this pragmatic approach. The former Secretary of State James Purnell launched the Commissioning Strategy with a commitment, “So we will be making sure that responsibilities are clearly defined and we will exploit the benefits of contestability and competition to drive quality, performance and value for money.”

September 2009

Memorandum submitted by Shaw Trust (EP 04)

1. SUMMARY

1.1 Shaw Trust believes that aspects of the manner in which contracted employment programmes are managed, are unnecessarily burdensome.

1.2 Current safeguards are overly bureaucratic and not as effective as some alternatives. Therefore, the question of whether there are sufficient safeguards is less important than the question of whether current safeguards are effective.

1.3 We see little evidence to suggest that the centralised contract management structure has been of benefit to the overall customer experience. However, it has impacted on our ability to fix issues at a local level quickly.

1.4 We do not believe that current availability of performance information is sufficient. We also believe that performance against target information should be published in order to ensure transparency and accountability in performance.

1.5 Although in principle Shaw Trust welcomes the objective behind the introduction of the Star Rating System as a useful measure of performance, it is concerned about the application of the system. We can identify a number of problematic areas with regards to its implementation.

1.6 It is the view of Shaw Trust that the prime contractor model is delivering on its promise of transparency, underpinned by the strict transparent practices which providers are bound by contractually. However, we believe that DWP must equally ensure that it adheres to transparent practices and its own commissioning strategy at all times.

1.7 We believe that there are a number of other emerging contract management issues which must be dealt with urgently. Included among these are the issues of TUPE, zero hours contracts, and the impact the global financial crisis has had on targets.

1.8 Shaw Trust would welcome the opportunity to provide further evidence to the Committee on the above matters at the forthcoming hearings.

2. SHAW TRUST

2.1 Shaw Trust is a registered charity and company limited by guarantee. We provide training and work opportunities for people who are disadvantaged in the labour market due to disability, ill health or other social circumstances. We are the largest third sector provider of employment services for disabled people in the UK and have been supporting disabled people to find employment for more than 27 years.

2.2 Shaw Trust’s delivery of employment programmes on behalf of DWP includes:

— Workstep: Our contract is to provide employment support for more than 3,200 severely disabled people.

— New Deal for Disabled People (NDDP): Shaw Trust is contracted to deliver services in 17 of the 19 districts.

— Pathways to Work: Shaw Trust holds five Pathways to Work contracts.

3. RESPONSE TO THE INQUIRY

3.1 DWP’s contract management approach

3.1.1 Shaw Trust believes that there are a number of different areas where the management and administration of contracted employment programmes is overly bureaucratic and burdensome towards providers. As a consequence, focus is often lost from a system which seeks to deliver outcomes, to a system which seeks to award process.
3.1.2 We believe that the Department of Work and Pensions (DWP) needs to strike a balance between “over-managing” aspects of outsourced employment contracts and under valuing the soft outcomes and overall client experience.

3.1.3 Overall, Shaw Trust believes that “common sense” should prevail in instances where bureaucratic processes are interfering with the efficient delivery of services. It is not acceptable to the care and support of our clients for bureaucratic practices to stand in the way. To give an example, claims have been rejected because the colour of the ink used to fill out the form was different—causing unnecessary delays in payment.

3.1.4 Contracts should ultimately give primacy to the needs of clients and the viability of those providers who seek to assist clients.

3.2 Safeguards

3.2.1 Perhaps the question of whether there are sufficient safeguards is not as pertinent as the question of whether the safeguards are effective.

3.2.2 An example of focus on process over outcomes can be found in current safeguards, which are currently overly bureaucratic. This can best be seen in the practice of providers having to source paper-based records in order to prove a job placement.

3.2.3 The extra workload and inefficiency caused by this bureaucratic process does not necessarily provide any additional safeguard against determined fraudulent claims. It certainly does not provide any additional security to the alternative of using Jobcentre Plus’s own records. If anything, paper-based systems are less secure and therefore, more vulnerable to fraudulent practice.

3.2.4 To give further detail, under New Deal for Disabled People (NDDP) there are two different types of job evidence:

(a) E1 form which is completed by the client, accompanied by a single payslip confirming that they had commenced work and that it is “expected to last for at least 13 weeks”, and

(a) E2 form which is completed by an employer, stating the job is “expected to last for at least 13 weeks” with relevant details of the post.

3.2.5 Following a National Audit Office (NAO) Review, DWP require additional evidence for the E1 form. It is now to include either a contract of employment which must state the job is “expected to last at least 13 weeks” or wage slips covering the 13 week period. This subtly changes the outcome definition to “has been in work for 13 weeks” which is not appropriate under the contract terms.

3.2.6 For small businesses in particular, this requirement is overly burdensome and has at numerous times prevented us from claiming legitimate job outcomes.

3.2.7 The E1 form is used to evidence 30%–50% of NDDP jobs. The additional evidence requirements that have prevented us from claiming job outcomes have a negative impact on both our performance figures and our finances—potentially compromising our ability to support future clients.

3.2.8 The situation is similar under the Pathways to Work scheme, where providers are also finding it difficult to meet this additional requirement, and where the mandatory nature of the programme makes achieving outcomes even tougher.

3.2.9 Alarmingly, we also have anecdotal evidence that some larger employers have started to charge providers for this information, knowing that providers are dependent on it in order to make a successful job outcome claim. Employers are describing this charge as an “administrative fee”.

3.2.10 We believe that the completion of form E1 or E2, together with evidence from Jobcentre Plus’s own records that the client is no longer claiming benefit, should be sufficient to determine whether a claim is genuine or fraudulent.

3.2.11 We also believe that the greatest disincentive to fraudulent activity would be for DWP to impose financial penalties upon providers who submit such claims, and to remove their contracts.

3.2.12 In broad terms, we believe that the sheer bureaucracy behind a paper-based system, is inefficient—for both public bodies and providers—and does nothing to enhance employment outcomes for clients. We believe that a move to an electronic system is imperative in order to modernise the UK’s welfare system.

3.2.13 Shaw Trust would welcome the opportunity to provide further evidence and examples to the Committee on this matter—in either written or verbal form.

3.3 Centralisation of contract management

3.3.1 In our experience, the centralisation of contract management in DWP has had a significant impact upon the role of JCP and its relationship with providers.

3.3.2 Whilst we acknowledge that there may be a cost benefit argument for DWP in having a centralised contract management structure, there is little evidence to suggest that it is of benefit to the overall customer experience. In addition, it has affected our ability, as a provider, to manage performance on a more localised level.
3.3.3 Previously, we built relationships and dealt directly with JCP District Managers, as well as other managers at other local/district levels. In our experience, local and district managers are in a far better position to understand issues which affect performance locally and they are in an even better position to make changes quickly in order to fix any such issues. As a result of centralisation, we now deal with a Supplier Relationship Manager within DWP who is responsible for Shaw Trust nationally. This means a loss of the ability to factor-in and quickly fix local issues affecting performance.

3.3.4 In addition, as DWP now manage performance, there appears to be a higher propensity for disconnect between JCP and DWP. We believe that the local knowledge that JCP managers bring to different programmes should be utilised to manage performance.

3.3.5 We believe it would be of benefit to overall service delivery for local managers to be made more aware of performance issues within their local areas and centres, as well as giving them more flexibility in managing those issues.

3.4 Information and performance measurement

3.4.1 We do not believe that current availability of performance information is sufficient, and therefore it is difficult to judge whether accuracy is monitored effectively.

3.4.2 We believe that performance against target information should be published in order to ensure transparency and accountability in performance, including when existing providers bid to run new programmes. In particular we are concerned that the star rating system is implemented effectively.

3.4.3 In principle Shaw Trust welcomes the objective behind the introduction of the Star Rating System as a useful measure of performance. However, it is concerned about the application of the system, which has been problematic across a number of different areas.

3.4.4 We therefore believe that modifications need to be made to the system in order to make it work more effectively. As an example, the Star Rating System must include client volumes, so as to ensure that organisations which help few clients are not rewarded disproportionately.

3.4.5 We are also concerned that in its current format, the Star Rating System may not necessarily be helpful in driving quality. We believe that providers should be measured against a set, best-practice standard rather than being measured against one another.

3.5 Transparency in the prime contractor model

3.5.1 It is the view of Shaw Trust that providers already adhere to strict transparent practices, as per their contractual obligations. We have no reason to believe that practices within the prime contractor model are anything other than transparent and sound.

3.5.2 Shaw Trust recognise the importance of probity for the establishment of a sound cooperative relationship. In order to facilitate this aim we support the contractual obligations which bind us to reporting on performance and which subject our business to random audits for probity.

3.5.3 Equally, we believe that DWP must ensure that it adheres to transparent practices and its own commissioning strategy at all times. DWP processes at the commissioning stage must be made clearer and more transparent. For instance, deadlines for tenders need to be clear and absolute and DWP must make every effort to honour its deadlines. DWP must also make every effort to communicate any changes clearly to all providers.

3.5.4 Shaw Trust believes that in order to allow providers to appropriately plan for tenders and for the delivery of work, DWP must ensure that it adheres to its own commissioning strategy at all times, without variation.

3.6 Other emerging contract management issues

3.6.1 TUPE

3.6.1.1 A major contract management issue is emerging on the transition between the Workstep and Work Choice programmes with regards to TUPE. Data provided by DWP shows that 37% of programme administrators and 58% of participants are on public sector terms and conditions (mainly with local authorities), which are typically more generous than those offered in the private or third sectors.

3.6.1.2 Where TUPE applies, the Trust would be required to provide equivalent terms and conditions to the transferring staff and participants. This would include meeting:

— any salary shortfall (likely to be small),
— pension contributions (likely to be high in the case of participants transferring from the public sector),
— any pension fund shortfall, and
— redundancy costs in the event that a person’s job becomes redundant.

3.6.1.3 Two tier work force principles would also apply, whereby new entrants to jobs that transferred under TUPE would receive the equivalent of the new terms and conditions.
3.6.1.4 It is likely that this level of cost and liability will make some of the Work Choice bids unviable. On this basis, DWP should be asked to underwrite any legal costs associated with a challenge around the status of Group 3b and the additional costs and liabilities affecting Group 3b in the event that TUPE is deemed to apply.

3.6.1.5 We are concerned about the lack of direction that DWP gives within its Invitations to Tender around whether TUPE applies. We have seen evidence that other government departments are more directive about the application of TUPE. We are, at present, particularly concerned about the lack of either direction or provision that DWP is giving in relation to transfer of undertakings for several hundred severely disabled Workstep clients. These people are employed directly by current Workstep contract holders and whose employment is hosted by other companies. We believe DWP should be pro-active in protecting the employment rights of these people, providing funds to cover this if TUPE obligation renders the new contracts unviable.

3.6.2 Zero hours contracts

3.6.2.1 We are increasingly concerned by the growing practice amongst some providers of claiming “zero hours contracts” as suitable job outcomes under all circumstances. These contracts, which are particularly common in the nursing and care industries, are offered for positions in which staff are not necessarily guaranteed a certain number of hours per week.

3.6.2.2 We acknowledge that there may be some circumstances—particularly within certain industries—where such contracts are preferable to a client not being offered a job at all. However, we strongly believe that this is unacceptable as a standard outcome under normal circumstances, and we regret to see this practice being used widely by some providers.

3.6.2.3 Zero hours contracts are not in the best interests of the client or DWP and in our opinion certainly not commensurate with the level of service required under DWP’s contract terms. We believe that consideration must be given to containing, and where possible, eliminating the practice, and that appropriate systems are developed to ensure that this is a feature of DWPs management approach.

3.6.3 The global financial crisis and its impact on targets

3.6.3.1 We believe that DWP needs to consider contract outcomes in the current financial climate. Programmes that were designed when unemployment was low are now putting providers under unreasonable pressure. This is particularly worrying for those third sector providers who are responsible for providing specialist support for specific client groups.

3.6.3.2 It must be recognised that economic conditions have a massive impact on a provider’s ability to meet contract targets, and we believe that there must be flexibility and dialogue throughout the life cycle of the contract—including when the programme is put out to tender.

3.6.3.3 Providers should be rewarded for making an honest assessment of possible job outcomes in the immediate economic circumstances rather than making the most ambitious contract offers to meet requirements of programmes based upon redundant economic and labour market data and then failing to meet targets.

We thank the Committee for the opportunity to contribute on the above issues. We hope this information is useful to the Committee and would welcome the opportunity to provide further evidence at the forthcoming hearings.

October 2009

Memorandum submitted by Working Links (EP 05)

Executive Summary:

— Working Links welcomes this inquiry and supports the Work and Pensions Committee in its initiative.
— On the whole, Working Links believes that the Government’s contract management and compliance systems are strong and effective.
— In particular, new innovations such as Provider Engagement Meetings (PEMs) and the development of the Merlin standard for information sharing and reporting will further strengthen the system. Additionally, the introduction of the Provider Referral and Payment system (PRaP) will serve to further eradicate the potential for human error and the opportunity to bypass formal procedures or cut corners through the clear separation of roles between consultants and the claims team.

Current processes are highly paper based and more prone to error and inaccuracies than the planned PRaP system.
— Working Links believes its own systems are robust and capable of dealing with any disruptions to its high standards of operation as evidenced below, through clear detection mechanisms, and procedures to deal with non compliance.

— DWP centralising of contract management does not necessarily mean making the delivery of services less flexible and should mean raising the standards of management across Great Britain.

BACKGROUND

1.1 Working Links is one of Great Britain’s leading providers of employment services for long–term unemployed people. Since its formation in 2000, Working Links has become a key supplier of employment, skills, Information Advice and Guidance (IAG) and support related services in some of the most disadvantaged communities in the country.

1.2 In many ways Working Links is a quite a unique organisation. From its inception it combined the best thinking from the private and public sectors and the voluntary sector. The people who founded Working Links realised that tackling worklessness required innovative approaches that would evolve as providers learned more about the multi-faceted levels of deprivation that their clients faced.

1.3 Originally, Working Links was established specifically to deliver contracts for Employment Zones (EZ). These were highly innovative contracts, the first from the Department for Work and Pensions (DWP) that both rewarded outcomes and defined those outcomes as not just jobs, but sustainable jobs. Working Links was thus formed as a public private partnership owned in three equal shares by the Government, represented on the Board at that time by the Employment Service, and two global private companies, Manpower and Capgemini. In December 2005 a Christian charity, Mission Australia acquired half the private sector held shares creating its current public, private and voluntary sector partnership (PPVP). The combination of three different cultures in the structure of Working Links has enabled the company to draw on the very best of those cultures in its approach to tackling worklessness.

1.4 Working Links currently employs over 1,400 people, operating out of more than 140 locations, has an annual turnover of over £86 million and has helped over 120,000 long term unemployed people into work. It is therefore well placed to understand the many different ways those who become workless can suffer from multiple disadvantages right across Great Britain.

1.5 During the course of the last decade, Working Links has developed, in tandem with the Government, a full range of interventions that address both employment provision and skills development. Initially focusing on sector based employment routes (eg retail, security, hospitality etc) it has now developed a broad range of training, including accredited programmes and its current contracts include Train to Gain, Offender Learning and a range of other European Social Fund (ESF), Learning and Skills Council (LSC) and Local Authority contracts linking learning to employment. As a result, Working Links’ expertise is now deeper and broader, working with newly unemployed people through rapid response contracts, more offenders through OLASS contracts and in addition to the 120,000 people helped into work so far, it has supported a further 7000 into recognised training places, believing that skills and sustainable employment are key to breaking the poverty cycle.

1.6 In the last year alone, the company has assisted 55,000 people in their search for work. Every 30 seconds, someone walks into a Working Links office for help. For every person Working Links engages with, there are on average 10 transactions—equating to over 500,000 transactions a year. 89% of Working Links people reached their objectives last year. 2009 Working Links invested more than £2 million in compliance and quality control.

ECONOMIC CONTEXT

2.1 The context in which Working Links has been operating has undergone a fundamental change. Since the summer of 2008, unemployment has risen from a figure of 1.7 million in June 2008 to 2.43 million by the end of June 2009. Many experts predict that unemployment may rise to over three million by the early part of 2010. This is because unemployment is a lagging indicator that does not respond immediately when the economy begins to recover. Indeed some experts believe the recession is already over.

2.2 But it is not just the overall rise in unemployment which is making Working Links’ job more complex and challenging. Long term unemployment (ie people unemployed for more than 12 months) has also increased. Up to the end of June 2009, it stood at 543,000, an increase of nearly 100,000 in a year. At the same, time total vacancies have decreased by more than 200,000 in a year to stand at 427,000 at the end of June 2009. This makes the task of finding sustainable employment for a growing numbers of hard-to-help workless people far harder than it was only 12 months previously. And the severity and depth of the recession has hit the most vulnerable very hard indeed. Young people have borne the brunt of job cuts, as have those in the production industries. Moreover the geography of unemployment has not changed since the 1980s and 1990s. As in the previous recessions, it is the same northern, midlands, Welsh and Scottish centres that have been hit first and hardest.

22 For example Monetary Policy Committee member David Blanchflower
Responding to the Committee’s Inquiry:

3.1 Turning to the substantive questions the Committee has posed, this response sets out in full Working Links’ stance and the evidence and argument for the position in as much detail as possible.

Safeguards: Are there sufficient safeguards in place to prevent providers from making fraudulent claims for outcomes they have not achieved?

3.2 The straightforward answer is “yes” in the case of Working Links’ own processes and procedures. Despite the more lurid claims by some in the media, the nine cases of fraudulent activity by Working Links people that have been cited represent only one case a year for the nine years Working Links has been operating among an employee base of now 1,400 people. Over that time more than 120,000 people have been helped back into employment. That is a rate of activity which translates into 0.6% of the workforce per annum and a rate of fraudulent activity per person helped into work of 0.008%. And even those figures are slightly too high given the fact that some of the allegations were found to be untrue when investigated by the Department for Work and Pensions (DWP) Risk Assessment Division.24 Where cases of fraudulent activity have been proven, involved employees have been dismissed. Appendix 1 provides greater detail of the safeguards in place at Working Links to prevent fraudulent activity occurring within the business.

3.3 Working Links has a zero tolerance of any fraudulent activity and has dismissed any employee found to have engaged in such conduct. The Internal Audit Charter (see Appendix 2) and Anti-Fraud and Corruption policy (Appendix 3) makes clear the important steps Working Links takes to manage its risks as professionally as possible. Furthermore, the inspection regimes of Ofsted and the DWP are rigorous and provide an external audit function that is of a very high standard. The introduction of a dedicated Supplier Relationship Manager (SRM) from DWP ensures consistency across Great Britain and provides one-to-one support if necessary. Should any audit process identify high risks, Working Links instigates management procedures to tackle the weakness and ensure improvements. The company’s comprehensive Anti-Fraud and Corruption Policy (aforementioned Appendix 3) makes it crystal clear that the business is committed to operating with complete honesty and integrity.

Protection of Employees: Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

4.1 Working Links is committed to developing and nurturing all its employees to the highest standards possible. It is rigorous in its recruitment and induction procedures and provides comprehensive training for its entire workforce in how to manage their work, their clients and the processes that support them. Of its 1,400 employees over 200 are dedicated to managing contract compliance across all Government departments and local authorities. Working Links has developed a whistle blowing policy (see Appendix 4) which makes clear the steps employees should take if they suspect colleagues of engaging in corrupt or fraudulent behaviour. Individuals are protected under the Public Interest Disclosure Act 1998, which is also incorporated into the Employment Rights Act 1996, under a process known as Protected Disclosure. Working Links is satisfied that employees are both encouraged to uphold the highest standards when at work, and also feel able to blow the whistle should they become aware of corrupt or fraudulent activity. Should irregularities be reported, Working Links investigates swiftly and thoroughly and takes appropriate action, based on proven evidence once the investigation is completed.

DWP Contract Management: Does DWP’s contract management approach ensure that the quality of service received by customers is commensurate with the level required under the contract terms?

5.1 Appendix 5 gives a detailed account of how the new Provider Engagement Meetings (PEMs) work. It is our firm belief that these new ways of working and engaging with providers are to be welcomed. The new PEMs create a more open culture of communication and partnership through which to manage the DWP’s £1.2 billion a year business and the performance of providers. In particular we believe the PEM achieves the following:

- Engagement with all key participants involved in the contracts.
- Uniform ways of working and managing contracts across Great Britain.
- Better alignment of strategy and delivery.
- Greater transparency for all parties.
- A mechanism for spotting the early warning signs of contracts that are going off course.

5.2 It is Working Links’ intention to mirror the PEM architecture in its own internal ways of working and managing its supply chain.

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24 DWP Risk Assessment Division found no evidence of fraudulent or corrupt behaviour to support allegations made about the Employment Zones programme in Glasgow; and the same was true of an investigation by Working Links audit team and external auditors Tait Walker about allegations about irregularities in the working of the Employment Zone team in Brighton.
Monitoring of provider information: Do DWP and the National Audit Office effectively monitor the accuracy of providers' management information systems, provider performance against targets, and the evidence on which provider payments are claimed?

6.1 On the whole, the performance management regime is tight, targeted and rigorous. The Financial Appraisal and Monitoring programme (FAM) run by DWP and recently changed and strengthened\(^ {25} \) is a robust mechanism. When the new regime starts on 1 October 2009 the outcome should then determine the subsequent level of audit activity.

6.2 In addition, to support its own internal audit team and demonstrate its commitment to continually developing its auditing processes, Working Links has, on occasions, used specialist outside resources to assist with investigations. It believes that the audit function is a strong part of what it does and the company works very closely with DWP and the Audit Office to ensure their processes are fully observed. The internal audit function complements the efforts of external auditors and reports any fraud that is identified and its financial impact to the external auditor as well as the Working Links’ Audit Committee. The implications of any fraud committed are discussed with the external auditor including the need to tighten control systems, should control weaknesses be highlighted, with the aim of preventing further occurrences from arising. Working Links is committed to doing all it can to maintain a robust control environment that deals effectively with any potential fraud or irregularities that might occur. It is presently working closely with the DWP to ensure that suitable measures are in place within all our contracts to provide a level of assurance to the DWP on the company’s measures to support fraud prevention.

Centralisation of Contract Management: How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?

7.1 The key innovation is the introduction of PEMs, as stated above, which will allow a consistent approach nationally, and enable Working Links’ supply chain to feed into the process at the right level. This will mean the customer is placed at the heart of delivery.

7.2 The flexibility that is required in the system is not a requirement for flexibility over core standards and processes, but flexibility at the point of decision-making for each and every individual who needs support, whether through Jobcentre Plus or an organisation such as Working Links. Tailoring support to meet each individual’s unique needs is rightly at the heart of what Working Links does. Backing this approach with the highest standards of contract management, centralised though that may be, is a sensible mechanism that the company supports. The important point is to create a system that allows expert help to be provided quickly at the point of need. Working Links believes the Government is genuinely committed to this ideal and is working to deliver it, while maintaining high standards of contract compliance.

Customer Charter: Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

8.1 In the sense that the Charter is a clear expression of intent from DWP, then Working Links sees it as being helpful. However, it is doubtful that a charter alone can ensure that everyone knows what they can expect from employment programmes. What matters most is how the customers feel about their experiences. It is this reaction that will more accurately measure expectations. In research conducted for Working Links by Populus, “Breaking Down Barriers”, (see Appendix 6 for research summary), among 500 long-term unemployed people and with a further qualitative phase of four focus groups, Working Links was highly regarded by its customers who responded to the high levels of individual attention given by Working Links frontline consultants. It is the individualisation of attention that is the key to success. Lone parents have different needs to ex-offenders who in turn are different from those who suffer from substance misuse. And in many cases people might fall into several of those categories at once.

Sub Contractors: Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?

9.1 Yes, Working Links believes it will. As already mentioned, PEM and the new Merlin standard are excellent mechanisms for managing the supply chain of sub-contractors. Working Links’ internal audit processes help the business to manage its relationships with sub-contractors in a formal sense but it also encourages strong and open partnerships with its sub-contractors. The new Merlin standard is being developed because it was felt that the existing code of conduct was largely toothless, was only a contract requirement for prime contractors, allowed no redress for poorly treated sub-contractors and did not do enough to raise standards across the supply chain. The development of an independent mediation service for sub-contractors to bring complaints about prime contractors will help ensure that quality will improve.

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\(^ {25} \) http://www.dwp.gov.uk/supplying-dwp/what-we-buy/welfare-to-work-services/notices-to-providers/changestothefamofcep.shtml
CONCLUSION

10.1 Working Links acknowledges that any organisation can improve its performance standards and it is committed to continuous improvements in its own procedures and performance. The company is satisfied that current checks and balances are in place to ensure it operates at the highest level in all it does. Working Links also believes that the new arrangements being made by Government will help strengthen the DWP audit regime and improve contract management as long as the regime is applied sensitively and intelligently. It is particularly in favour of the PEM as a means to raise standards and improve the sharing of information. Working Links is grateful to the Committee for holding this inquiry and receiving this submission.

10.2 Working Links is happy to be approached to supply more information to the above and to meet in person to provide further documentation to support our response.

October 2009

Memorandum submitted by PCS (EP 06)

SUMMARY

— The Public and Commercial Services Union (PCS) is the largest trade union within both the civil service and the Department for Work and Pensions (DWP). PCS represents just under 300,000 people including 84,000 members working in the DWP. We also represent members who continue to carry out public service functions now situated in the private sector.

— Our members have a range of roles that span the DWP, its many entities, tasks and priorities. PCS members are not only providers of services but recipients too.

— The union’s aims of improving the conditions of members working lives and raising issues of service quality and provision continue to be supported by PCS members through an active and democratic network of lay representatives, who volunteer, negotiate and campaign throughout the UK.

— PCS welcomes the Select Committee's timely inquiry and is happy to supplement this written submission with further information and oral evidence.

— PCS submitted an emergency motion to the annual Trade Union Congress 2008 which set out policy to oppose the right to bid and the privatisation of employment services. This policy was democratically agreed by the trade union movement and continues to be advocated by PCS.

INTRODUCTION

1. Job cuts and office closures in the DWP since 2004 have undermined the ability of the Government to respond effectively to the recession and support unemployed people. The cuts in the DWP have also curtailed the ability of PCS members to deliver existing employment services. At the same time the Government has continued to commission more services from the private sector.

2. The Government’s drive to privatise DWP work is part of a wider policy agenda of contestability that is supported by all the three main political parties and involves opening up markets for public services to new suppliers from the private and third sectors to create public service industries.

3. The Government commissioned report by the economist DeAnne Julius published in July 2008 recommends opening up more UK public services to markets and encouraging developing nations to follow suit.

4. The Welfare Green Paper in July 2008 stated that “Jobcentre Plus is recognised as one of the best back to work agencies in the world”. Regardless of the “superb record” of the public sector in delivering back to work support, the Government still continues to privatise employment services.

5. Child Poverty Action Group research, published December 2008 entitled “Contracting out employment services: lessons from Australia, Denmark, Germany and the Netherlands” by Sharon Wright examines the international research evidence and “finds remarkably little justification for the proposed changes to the delivery of employment services”.

6. The Audit Commission in 2008 said they are “not aware of any evidence that services transferred to the third sector show distinct improvement in quality after that transfer” and concluded that “there is very little evidence, at either national or local level, on the performance and value for money secured from voluntary sector providers”.

7. The sector promoted by the Government to take DWP contracts is composed of non-profit making voluntary and community groups, hybrid governmental-charities, long established charities and profit-seeking businesses. They have different priorities ranging from representing service users through to those who aim to increase their own market share of public contracts.

8. PCS believes that it is wrong to allow private sector contractors to profit from the unemployed.
PRIVATISATION PROPOSALS: PROVISION OF SOCIAL FUND LOANS

9. The welfare reform bill clauses 15–17 establishes powers for contracting out the provision of social fund loans. Although ministers have expressed a preference for contracting Credit Unions to provide social fund loans, the bill would empower the Secretary of State to contract “any person” to undertake this work thereby allowing any private company to bid for the social fund.

10. The prior proposals on social fund had an exceptionally short consultation period immediately prior to Christmas 2008 and no response has been published by the Government. A further period of public consultation was promised by the Government to take place in summer 2009. However this has failed to materialise. Yet the Bill proposes to privatise social fund loans and to restrict availability to loans from Jobcentres where there is provision by another provider.

11. The figures for the take-up of the social fund in the consultation document show that the social fund is very popular. Four million applications for a discretionary payment in 2007–08 is evidence of the large demand that exists. This evidence shows the current social fund in a positive light, as a DWP success story, where the offer of additional financial support has been taken up enthusiastically, as a much-needed lifeline, by DWP clients struggling to manage on very low incomes.

12. PCS is opposed to moving the provision of the social fund out of the DWP because it will put this popular and successful service at risk.

13. On 20 Jan 2009 the Financial Services Compensation Scheme stepped in to protect members of two failed credit unions. They are processing claims for customers of Khalsa (Bradford) Credit Union Limited in Bradford and Polmaise Community Credit Union Limited in Stirling, Scotland, which became insolvent at the end of last year.

14. As well as the consequential effects of an economic crisis, we do not believe that any credit union has the capacity to take over social fund work. There is certainly no credit union capacity to take on the national delivery of four million applications for credit a year. DWP does have the capacity, as it has proved year after year for the last 20 years.

15. The DWP is by far the best placed organisation to deliver the social fund and is able to deliver this service to every person in the country who needs it.

16. PCS is not opposed to credit unions and we support the principles underpinning them. Indeed PCS is currently investigating how a credit union could be set up for the use and benefit of PCS members. We are however opposed to extending their role into the delivery of public services.

17. Underpinning PCS concerns about involving the third or private sector in delivering the social fund is our total opposition to the jobs of our members being transferred out of the civil service into the third or private sector. The proposals as they currently stand would appear to include the possibility of a transfer, under the TUPE regulations, of PCS members into the third or private sector. PCS is absolutely opposed to such a development.

18. Our members are proud to be public servants and proud of the successful work they do in delivering the social fund. They do not want to work in organisations that seek to expand or make profits at the expense of the poor.

19. The proposals in the Bill run the risk of scrapping an effective system and replacing it with an untried and untested alternative without the resources to deliver. PCS believes that this would be an unacceptable risk to take.

20. When the social fund was first introduced, the aim was for DWP staff to provide money advice to clients and a significant investment was put into training staff to do so. Over the years this role has largely faded away but PCS can see no reason why DWP should not revisit this concept.

21. There has been a significant increase in the volumes of claims for social fund loans which has put pressure on our members in DWP. According to the social fund commissioner’s annual report, it is failing to cope with requests for help. Sir Richard Tilt, the commissioner, said applications for loans had gone up from one million to three million over the past couple of years and the system could not cope with demand. Fewer than half of those who phoned a crisis loan telephone line managed to get through to an adviser. In some places, such as Bristol, the success rate was less than 7%.

22. Tilt called for the £141 million-a-year fund to be increased to £200 million as a matter of urgency, given the current economic conditions. He warned that failures in the system would end up driving people into the arms of loan sharks.

23. The response of DWP to the increased demand for Social Fund has been to propose restricting access to crisis loans for living expenses to a maximum of three loans in any 12 month period. This proposal is with ministers at the moment. If it is decided to introduce this restriction the most likely outcome is to drive the poorest people in society into the arms of loan sharks.

24. PCS wants to see the Government scrap the proposals relating to the social fund contained in the Welfare Reform Bill. Instead they should be replaced with plans to provide more grants not loans and introduce measures to increase levels of accessibility. We also think the Department should increase the staffing numbers to help to deal with the large number of claims received.
PRIVATISATION PROPOSALS: JOBCENTRE PLUS

25. Clause 25 of the Welfare Reform Bill allows for the contracting out of functions currently carried out by Jobcentre Plus (JCP) employees on behalf of the Secretary of State.

26. The trade union movement are fundamentally opposed to the contracting out of Jobcentre Plus.

27. From evidence available it is clear that privatised employment programmes do not outperform those provided by Jobcentre Plus. When the public and private sectors are allowed to compete on equal terms the result is a decided victory for Jobcentre Plus.

28. “The 25 PSL (private sector led) teams as a whole only met 78% of their job entry targets in year one of phase 3 of action teams, compared to the 40 Jobcentre Plus teams, as a whole, who achieved 140% of their job entry targets. PSL teams, as a whole, achieved 69% of their outcomes from non-JSA customers, compared to Jobcentre Plus teams, as a whole, who achieved 76% (again, exceeding the target of 70%). PSL teams, as a whole, moved into work proportionately more clients who had been out of work for a short time than Jobcentre Plus teams. They were also proportionately more likely to work with clients with just one of the target disadvantages than Jobcentre Plus teams, as a whole, were.” Review of Action Teams for Jobs research report 328, IES for DWP 2006

29. The Observer newspaper in March 2009 reported in the article “Minister in welfare cover up row” that the Observer obtained secret documents which were sent at the end of January by senior officials at the DWP to Jobcentre Plus directors and managers containing figures showing how private firms had performed far worse than Jobcentre Plus in delivering the Pathways to Work programme.

30. An official DWP report marked “restricted” revealed how the private companies placed just 6% of incapacity benefit claimants on their books into work, rather than the 26% they had claimed would be possible when they bid for contracts. This compared to 14% achieved by Jobcentre Plus during the same period. The report described the performance of the private contractors as “not satisfactory”.

31. Nevertheless the Government continue to press ahead with the privatisation of employment services despite evidence that in-house provision performs better. The Welfare Reform Bill goes even further than the current arrangements and allows more services to be contracted out.

PRIVATE SECTOR PERFORMANCE

32. The “Public Services Industry Review” by Dr Julius reveals privatised services now represent a £79 billion industry, a 130% growth since 1995.

33. Here are some examples we have previously highlighted which are associated with privatised services:

34. The Manchester Evening News reported claims by jobseekers that they were being treated “like cattle” by A4e (a private sector provider of back-to-work provision). They said up to 200 of them had been crammed into premises where they had two computers, no telephone access for job searches and just one toilet each for men and women which were “filthy”. One jobseeker, Mark Jones, told the newspaper: “in six weeks I did absolutely nothing all day, every day. No training was offered, no job search facilities made available and no work experience placements arranged”.

35. Apprenticeship group Carter and Carter had DWP contracts for Pathways to Work and for the New Deal for Disabled People. But the company went into administration in March, 10 months after the death of its founder Phil Carter. The company received most of its funding from DWP contracts and the Learning and Skills Council, but by January 2007 had net debt of £86 million and its shares were suspended in October. In November, the Guardian newspaper reported it had to return government payments for tuition at its North East Skills unit “after an inquiry found falsification of some supporting documentation”.

36. Instant Muscle, another DWP provider went bankrupt earlier this year. The firm had won an £11 million contract last November to carry out interviews on claimants in Surrey and Sussex. Established as a charity in 1981, Instant Muscle became a company in 2005 but retained its charitable registration.

37. It has been reported by the Daily Mirror that New Deal contractor Maatwerk has been dropped after up to six rogue staff made 7,000 jobseekers sign fake papers saying Maatwerk found them jobs, in order for the Maatwerk staff to qualify for payouts of up to £3,000 a time. Jobseekers were paid £150 each to sign bogus forms, although they were thought not to have known they were helping to cheat taxpayers. One Maatwerk insider was reported as saying “They’re often financially challenged, so £150 for signing a paper was an easy option. But suspicions were raised when some staff hardly left the office, yet claimed for large numbers of jobseekers.”

38. Further examples of unsatisfactory practices include Business Employment Services LTD (BEST) who were awarded a £40 million contract by DWP in 2006 to provide training for long-term job seekers in West Yorkshire. BEST have been described by users as hopelessly inadequate with up to 20 people sharing two computers on which they are supposed to complete training and job searches. Other users have complained that they were advised to complete timesheets that indicated training had taken place when the offices were closed on a bank holiday. On another occasion all present at the training course were advised to complete two forms to state they were receiving training when in fact they were told to take the two days off to look for work outside of BEST offices.
39. In the UK, an £85 million contract has been awarded to the Australian firm Work Directions Ltd who are one of the largest providers of employment services to the Australian government. Work Directions UK, a subsidiary of Ingeus, has won six of the first 15 contracts put to tender. The organisation has been investigated for breaking labour laws in Australia by underpaying workers and was found to have technically broken the law and agreed to reimburse money to staff. The organisation had used privacy arguments to frustrate auditors checking up whether it had spent taxpayers’ money correctly. The organisation has also lost a number of Australian government contracts because of its poor performance.

40. In August the Observer newspaper in “Firms in fraud probe set for Whitehall cash” reported that two companies subject to a fraud inquiry were on the shortlist for contracts to get disabled people into work. Out of 28 regions across Britain, A4e was listed in nine regions and Working Links was listed in 16 regions. It was reported that the DWP risk assessment division had found evidence of fraud in at least two companies but did not report its findings. In addition, the Third Sector magazine in July 2009 reported that the “Freedom of Information Act will not apply to charities”.

41. In the September 2009 edition of the magazine Private Eye, it has been reported that A4e sponsored a meeting with the Minister of State for Employment and Welfare Jim Knight on “making welfare to work work in the recession”. A second meeting on the same subject and paid for by A4e featured Secretary of State for Work and Pensions Yvette Cooper. She was on the panel with A4e boss Mark Lavell.

REGULATION AND ACCOUNTABILITY

42. At present there is no public information available which outlines the costs of individual contracts and their associated aims and objectives (and even less information is available about sub-contracting arrangements).

43. PCS believes public funds should be accountable to the electorate and not hidden in commercial in confidence clauses.

44. PCS believes that the necessary accountability requires high levels of regulation, additional duties to publish information, the requirement for service user feedback and intensive scrutiny and auditing.

45. The current system of regulation does not work. For example, there are no checks to ensure that people have the jobs that the contractors claim and there are no requirements for contractors to provide evidence before they receive payment.

46. PCS believes that an open and transparent evaluation of pathways to work and phase one of the flexible new deal is essential. We believe the contracted programmes are not open to democratic or public scrutiny nor indeed are they accountable. Further tendering of DWP employment provision, including phase 2 of the flexible new deal, should be suspended until this evaluation is completed.

47. The lack of transparency in DWP contracts extends to the customer complaints process. While it is clear to customers how, and to whom, a complaint against Jobcentre Plus should be made, the same does not apply if a customer wishes to complain about the service of a private provider. PCS believes that a robust complaint process for provider-related complaints needs to be established, with complaints being overseen by DWP rather than by the contractor.

48. The centralisation of contract management in DWP has weakened the link between Jobcentre Plus and the providers. The relationship is more distant and much of the local interaction and detailed knowledge of the business, that was essential to effectively monitor provider performance, has been lost.

49. Private companies continue to escape criticism and scrutiny. They have had government work outsourced to them and they have been shielded from any suggestion of incompetence in case the public discovers that decades of privatisation have not produced the improvements in performance that its protagonists have promised.

TREATMENT OF STAFF AND CLIENTS

50. PCS believes the evidence available demonstrates that the profit motives of the private sector run against the interests of unemployed people and the staff who deliver services.

51. PCS wants fair treatment at work as well as in service delivery. We believe the customer charter proposed by DWP lacks information about individual entitlements to services and the document is too vague to offer clients a sufficient understanding of their rights. The charter should clearly set out the minimum service standards clients are entitled to receive.

52. Staff are rightly fearful of being transferred to the private sector as pay, terms and conditions can be detrimentally affected and staff may also face harsher working practices and discrimination in employment.

53. For example, two employment tribunal cases against the same Christian charity, the Reading-based Prospect, heard that the organisation which receives public money for its work with people with learning disabilities had discriminated against two employees on religious grounds. Prospect has more than 900 staff around the country.
54. Louise Hender (supported by Unison) failed to get a promotion because she was not a Christian, while Mark Sheridan (supported by the British Humanist Association) felt he was being forced to uphold the organisation’s policy which said non-Christians could not be employed in permanent posts. The tribunals upheld their cases for constructive dismissal.

CONCLUSION
55. The evidence available demonstrates that privatised employment programmes do not outperform those provided by Jobcentre Plus. Nevertheless the Government continue to press ahead with the privatisation of employment services despite in-house provision performing better.

56. Our members in Jobcentre Plus have demonstrated that public service works best. They have successfully adapted to the doubling in customers in the last 12 months. No private sector organisation would have had the capacity or the will to respond as quickly or as effectively to such challenging circumstances.

57. The Welfare Reform Bill goes even further than the current arrangements and allows more services to be contracted out.

58. PCS will continue to campaign to oppose the Welfare Reform Bill and the privatisation of public services.

59. A major flaw in the DWP contracting strategy is the refusal to consider in-house bids, despite Cabinet Office guidance to the contrary. PCS made a strong case for the flexible new deal to have an in-house bid but this was rejected by DWP.

60. We firmly believe that our members in Jobcentre Plus would have been able to provide a higher quality and more efficient service than profit-motivated contractors.

61. We believe services are best improved by having an active and collaborative contribution from staff, external organisations and service users.

62. We hope the Committee will challenge the ideological drive to outsource more of our public services.

October 2009

Memorandum submitted by A4e (EP 07)

INTRODUCTION
1.1 This formal response is submitted on behalf of A4e in relation to the Work and Pensions Select Committee inquiry into the management and administration of contracted employment programmes. A4e would be happy to provide further clarification on any aspects of our response, and willing to give oral evidence to the Committee if required.

1.2 A4e currently delivers a range of contracts across the UK on behalf of the Department for Work and Pensions (DWP), including the New Deal Prime Contract, Pathways to Work, New Deal for Disabled People, DWP European Social Fund and JCP Programme Centre. A4e have also been awarded Phase 1 Flexible New Deal contracts which will begin delivery in October 2009.

1.3 A4e takes its role as a responsible provider of contracted employment programmes seriously. We continue to work closely with DWP to jointly ensure that the welfare to work market, and its response to fraud and contract management continues to mature and evolve.

1.4 At a time of increasing pressure on Government Departmental budgets it becomes ever more important that public resources aimed at supporting the most disadvantaged people in society are spent effectively. Fraud and cases of poorly executed contract management seriously undermine this objective, and A4e is committed to working with the DWP and other partners to tackle these issues.

1.5 This report addresses each of the questions posed by the Committee and aims to set out those areas in which processes have been, and continue to be, improved. It also sets out a number of particular recommendations that A4e itself makes to enhance the way DWP and providers prevent fraud.

1.6 In doing so, A4e have drawn on some lessons learnt from the fraud case in Hull, and this report provides full details of the issues raised and the organisation’s response to them.

EXECUTIVE SUMMARY

2.1 Reducing fraud in contracted employment programmes is the shared responsibility of contracted employment programme providers and DWP. A4e has been delivering welfare to work services in the UK since 1992. Over this period our safeguards against fraud have evolved. This trajectory of reform has been hastened by the recent case of fraudulently claimed job outcomes found in Hull.26

26 3.1 Full details of the fraud committed at A4e’s Hull office is provided as Appendix 1.
2.2 A4e's response to fraud has included an investigation to ensure the organisation is aware of the scope of fraudulent practice\textsuperscript{27} [See paragraph 3.5].

2.3 A4e have put in place reforms intended to highlight quickly when fraud occurs, these include centralised administration of all job outcome claims [See paragraphs 3.7–3.8], checks with employers to verify job outcomes [See paragraphs 3.9–3.10], and an increased emphasis on the importance of whistleblowing [See paragraphs 3.11].

2.4 A4e has also implemented safeguards intended to reduce the opportunity for staff to commit job outcome related fraud in the future, these safeguards include a shift in emphasis from compliance to assurance [See paragraphs 3.13–3.16], Deloitte developed assurance processes to identified fraud risks [See paragraphs 3.17–3.18] and a shift from individual to group incentives [See paragraphs 3.19].

2.5 DWP's response to removing the risk of fraudulently claimed job outcomes has included transferring from a vulnerable paper based client referral and payment system [See paragraph 3.22] to an electronic system known as PRaP supported by the off-benefit verification [See paragraphs 3.25–3.26] and removal of the subjective conditions around what constitutes a job outcome [See paragraph 3.27]. DWP have also bound Prime contractors to prescriptive contractual requirements in terms of actions against fraud [See paragraphs 3.29–3.30].

2.6 A4e believe that the contractual and systems safeguards introduced by DWP on new contracts will drastically reduce the opportunity for fraud. A4e's internally developed safeguards are comprehensive and proportionate in the context of a system which, whilst paper based and complex, will be inherently vulnerable to potential fraud.

2.7 A robust whistleblowing policy offering clear protection for employees who raise concerns about the organisation's delivery of contracted employment programmes should now be considered part of a responsible Prime Contractor's duties to its employees [See paragraphs 4.1–4.7].

2.8 DWP's methods for ensuring quality of provision is evolving from one based purely around commissioning to a wider Quality Framework which draws together continuous self-assessment and provider development planning, Independent External Inspections and STAR ratings [See paragraphs 5.1–5.9].

2.9 A4e expects DWP's reform of its Financial Appraisal and Monitoring function to play a vital role in ensuring the effective monitoring of provider's management information systems and performance [See paragraphs 6.1–6.8].

2.10 A4e believes the centralisation of contract management is an essential part of DWP's role as market steward. However it remains important for providers to explore ways of creating better working relationships with JCP locally [See paragraphs 7.1–7.4].

2.11 A4e strongly supports the proposed customer charter and believes that its success will be dependent on implementation and the relationship between the advisor and the client [See paragraphs 8.1–8.4].

2.12 Maintaining a role for sub-contractors in our own supply chains and in the wider contracted employment programme market is important and the new code of conduct/Merlin Accreditation should help to ensure that supply chains are transparent and appropriately managed [See paragraphs 9.1–9.8].

Are there sufficient safeguards in place to prevent providers from making fraudulent claims for outcomes they have not achieved?

3.1 Reducing fraud in contracted employment programmes is the shared responsibility of contracted employment programme providers and DWP.

3.2 A4e has been delivering welfare to work services in the UK since 1992 and has been involved in delivering many of the UK's welfare to work services including ONE, New Deal 25 Plus, New Deal Private Sector Led, Pathways to Work and New Deal Prime Contract. Over this period A4e's safeguards against fraud have evolved. The organisation has recently taken an additional series of measures following a recent case of fraud in Hull and following the appointment of a new Group Head of Risk who has introduced a new assurance framework into the business.

3.3 In spite of A4e's rigorous policies and procedures surrounding the delivery of the service, and the significant investment in its own audit capability A4e has been the victim of fraud perpetrated by its own members of staff. A4e have used this example to highlight how fraud could occur. In the period of June to October 2007, in A4e's Hull office, the Deputy Business Manager and a Recruiter worked in complete contravention to the organisation's policies through the submission of fraudulent job outcome claims. One of these employees was also found to be colluding with an employee from a recruitment agency to falsify sustained job outcomes. Senior staff members received a number of assurances from both the recruiter and Recruitment Agency staff member that the job placements met the required threshold (ie 16 hours per week and expected to last 13 weeks). However A4e were alerted by our clients reporting that jobs were lasting for less than the required 13 weeks. Our local management investigated and suspended all dealings with the recruitment agency.

\textsuperscript{27} On New Deal Prime Contract Delivery
3.4 DWP initiated a Risk Assurance Division (RAD) investigation. The investigation confirmed that from a sample of 200 cases drawn from the period under review 21 had been fraudulently completed. Of the two employees found responsible for the fraudulent claims, one had already left A4e prior to the RAD investigation and the other was suspended in December 2008 following completion of RAD interviews under caution and was dismissed in January 2009. A4e repaid DWP £12,500 for these incorrectly claimed outcome payments.

3.5 As a direct response to the fraud found in Hull A4e accepted an implicit responsibility to conduct an investigation to examine the scope of fraudulently claimed job outcomes within the organisation’s delivery of New Deal. The investigation was based on the claims made by our twenty highest performing recruiters across the New Deal Prime Contract programme. The sample period which the investigation has covered was December 2008–May 2009. The initial audit of submitted job outcome claims was completed in w/c 13 July 2009. The investigation has then used “off-benefit” checks to validate the claims made by A4e’s recruiters. Off-benefit checks are conducted by JCP district support staff on clients’ National Insurance records to establish whether they are still claiming out of work benefits. A4e have requested on many occasions that this “off-benefit” check be made as a standard part of the delivery process across all contracted programmes. Providers’ staff could still falsify job outcome submissions, as occurred in the Hull case, but they could not falsify the fact that a client has signed off if they were still claiming benefits. This check is entirely out of the control or influence of providers. The investigation will be completed in w/c 5 October 2009. This audit process of highest performing recruiters will now become embedded in our routine assurance measures.

3.6 In addition to investigating the scope of fraudulently claimed job outcomes present within the organisation’s current delivery of contracted employment provision A4e have made substantive changes to our own internal auditing processes in order to maximise the opportunity the organisation has to identify fraudulent behaviour around job outcome submissions as soon as it occurs.

3.7 A4e have centralised the administration around the submission of all New Deal Job Outcome claims. This is an additional layer of scrutiny that is completed after the manager of the delivery office has made their own checks of claim documentation. This centralised review of the submission of job outcome claims across A4e ensures that despite the scale of the organisation, there is robust oversight of all submitted claims. This ensures that where possible, given that there are local differences in procedure, checks on the outcome claim and corresponding evidence are standardised.

3.8 The role of the existing Audit and Compliance team has been examined. A4e’s historic approach to audit has largely been focused on compliance. This role has now developed to reflect the joint thinking between DWP and providers around better assurance and contract management. This has meant a focus on business processes and internal control design alongside the routine checking of outcome paperwork and supporting documentation.

3.9 By concentrating on the training of staff, increased clarity over expectations within the operational structure, and the strengthening of outcome checks made by the central administrative function; the renamed Internal Audit team will focus on the design and effectiveness of managerial controls aimed at identifying and mitigating risk in addition to their existing role of independent assessment of compliance. A practical example of this new approach in terms of job outcome claims has been demonstrated in the additional detective controls that A4e have implemented. In the past A4e reviews of job outcome claims have been limited to checking that the paper evidence complies with DWP criteria rather than identifying falsified data. A4e has created an independent team who, as a matter of normal operational practice, check 50% of all job outcomes claimed across all contracted employment provision directly with the employer. This entails telephoning an employer to verify the detail of a job outcome claim, ie they are employing one of our clients. In the event that the employer is not able to verify the information in the Job Outcome claim a number of further checks, including off-benefit checks are triggered. If further checks highlight evidence of non compliance with procedures, appropriate disciplinary action will be taken. In cases of proven fraud this will lead to dismissal for gross misconduct and prosecution.

3.10 As part of A4e’s supply chain assurance the organisation is also applying this check to subcontractor’s job outcome claims. The process for subcontractors follows the same escalation path. A4e will also take action in line with the provisions of the contract, which could ultimately lead to termination of the sub-contract.

3.11 A4e encourages whistleblowing as it serves as another important mechanism for identifying fraud. A4e has strengthened its whistleblowing procedures to encourage other staff members to disclose concerns about malpractice. A4e also believe that an independent body acting as an Ombudsman for the industry may be an effective way of regaining a sense of openness and accountability in the industry. As more responsibility for delivering the Government’s targets for employment is vested in the industry, the market needs to respond by placing an increased emphasis on transparency and accountability.

3.12 A4e has an unequivocal stance on fraud in our procedures and the organisation will always exercise sanctions in full. Fraud is an act of gross misconduct leading to summary dismissal. Moving forward A4e has also committed to pursuing criminal prosecution against the individual. Employees are in no doubt of

28 More detail on our whistle blowing procedures follow in our response to Question 2.
the organisation’s stance in relation to fraud and this is clearly communicated in individual employment contracts and in organisation’s operating procedures. To ensure this is the case, A4e have reviewed and revised the organisation’s Fraud Policy, and supporting Fraud Investigation Protocol guidance, and are in the process of reissuing both documents to all staff.

3.13 It is important that A4e’s safeguards against fraudulently claimed outcome payments do not solely focus on identifying fraud after it has occurred. A4e recognises that as the contracted employment programme market matures, there is a need for both DWP and providers to evolve and move from processes intended to satisfy potentially narrow compliance standards to developed systems designed to assure delivery against organisational commitments. This requires the design of broader, more intelligent systems. This recognition has led us to develop a different approach to audit and compliance, an approach which mirrors many of the changes currently being made within DWP’s own Financial Appraisal and Monitoring (FAM) function.29

3.14 This development process is being led by A4e’s Group Head of Risk, Sarah Aston, who joined the business as a new appointment in April 2009. A fundamental review of the Risk Assurance framework has been in process since April 2009 and a number of actions have been implemented.

3.15 A4e are reviewing how to ensure that the organisation better translates all contractual objectives agreed with the DWP into internal operational and system objectives. A4e are also reviewing the way in which commitments to our stakeholders are subsequently measured and monitored. Two new appointments have been approved to support this work of the Risk Assurance function, in addition to the Group Head of Risk; a senior Policy Officer and a qualified Information Security Officer, experienced in the application of relevant international standards.

3.16 Work has been carried out to strengthen the risk management framework across the Group through the use of risk registers, formalised escalation processes and ongoing monitoring mechanisms. By analysing the risks to the delivery of our contractual objectives, A4e can continue to design an effective internal control framework.

3.17 A4e have also commissioned Deloitte’s fraud team to work with us to develop our assurance processes around the delivery of contracted employment programmes. Their work has been carried out in three distinct stages. The first stage included a survey and group workshops which analysed staff’s perceptions, attitude and experience in the fields of fraud and business ethics, the purpose of the phase was to identify potential risk factors and historic weaknesses. The workshops ran from 21–23 July 2009. A4e has decided that the survey will be periodically re-run as part of a programme of activities which conducts a regular temperature check of the organisation and feeds the continuous improvement objectives outlined in A4e’s strategic plan.

3.18 During the second and third stages, Deloitte staff worked alongside A4e’s front-line staff and management to map out all the processes involved in delivering a contracted employment programme, including the specific identification of all fraud vulnerabilities in existing and new delivery models. The second stage focused on applying this diagnostic approach to Flexible New Deal and the third stage extended the approach to all other contracts. In the future A4e will incorporate this diagnostic process into project implementation for all new welfare to work contracts. These final phases have not yet finished. However A4e received the interim results from Deloitte in week commencing 28 September 2009 and are currently reviewing the findings. A4e expects to use the conclusions to determine the direction of ongoing development of the organisation’s systems of control.

3.19 Finding good quality jobs for jobseekers and achieving sustainable employment in a difficult labour market is a huge challenge and A4e needs to incentivise its teams to compete on behalf of its customers. These incentives need to be balanced. A4e have found that individual performance incentives, whilst effective in delivering short-term results, may have been a driver for individual malpractice. Partially as a safeguard against individuals making fraudulent job outcome claims, A4e have initiated a team based incentives package that emphasises collective rather than individual performance and reduces the risk of individuals abusing the system.

3.20 A4e’s internally developed and developing safeguards represent an appropriate attempt to identify and prevent A4e staff making fraudulent claims for outcomes which have not been achieved on current contracts that use paper based systems to verify claims. A4e estimate that our investment in safeguards intended to prevent fraud in our welfare to work delivery this financial year equates to £1.9 million.30

3.21 DWP, as market steward, controls the contractual framework including the processes and checks made against a providers job outcome claim. This contractual framework plays an important role in determining how easy or difficult it is for the staff of providers to make fraudulent job outcome claims.

3.22 Under existing contracts, such as New Deal Prime Contractor and Pathways to Work, there is a paper based system which is used to evidence the progress of clients, which in turn triggers payment to the provider; this system is known as the Contracted Employment Provision (CEP) referral and payment process. Paper based systems rely on evidence such as timesheets with signatures made by both the customer

29 A more in-depth discussion of the reform of the FAM function appears in our response to Question 4.
30 These costs include Business Risk, Central Admin Support, Quality, Audit and Deloitte’s fraud consultancy work. They do not include any wider HR costs.
and provider staff, to authenticate the information on the forms. DWP have rightly recognised that this existing paper based referral process is vulnerable to fraud, is time consuming, costly to administer and prone to error and delay.

3.23 Another frailty in the contractual framework relates to the conditions placed on the Job outcome. Under New Deal Prime Contract job outcomes are rewarded for jobs which providers “expect” to last for 13 weeks. As was shown in the Hull case, this reliance on the subjective opinion of provider staff is open to abuse. Staff could claim a job outcome having moved someone into very temporary work and yet claim that they expected that work to last for 13 weeks.

3.24 DWP are implementing safeguards under the next generation of contracted employment programmes which deal with both of these issues.

3.25 The single most important fraud safeguard for contracted employment programmes will be the transition to an electronic referral and payment system known as the Provider Referral and Payments system (PRaP). Under the PRaP system, all claims for outcome payments are verified by an “off-benefit check”. Off-benefit checks are conducted by JCP district support staff on clients’ National Insurance records to establish whether they are still claiming out of work benefits. Providers’ staff could still falsify job outcome submissions, as occurred in the Hull case, but they could not falsify the fact that a client has signed off if they were still claiming benefits. This check is entirely out of the control or influence of providers. Without a successful off-benefit check the provider will not receive an outcome payment. Initially supporting Flexible New Deal contracts, all contracted employment provision will migrate onto PRaP at contract award or renewal by 2011–12.

3.26 Our own work identifying the likely paperwork generated by each customer suggests that PRaP will also significantly reduce the volume of paperwork which circulates between DWP, the Prime Contractor and JCP. Currently for New Deal each individual customer could potentially generate up to 137 pages of paperwork. Last year A4e directly worked with 59,722 customers through our New Deal Prime Contract so as a result A4e have been managing between six and eight million pieces of paper for this single area of delivery. This figure does not include sub-contracted delivery or indeed other contracted programmes such as Pathways to Work, New Deal for Disabled People or DWP ESF provision. Under Flexible New Deal paperwork will be greatly reduced. The reduction in the amount of paperwork will result in a reduction in claim errors.

3.27 The conditions of job outcomes will also evolve with Flexible New Deal. As noted earlier under New Deal job outcomes were rewarded for jobs which providers “expected” to last for 13 weeks. In comparison, under Flexible New Deal short job outcomes are paid for jobs which as a minimum do last for 13 or 26 weeks. The removal of subjective opinion around the sustainability of job opportunities, along with the automatic off benefit check will drastically reduce the vulnerability of the system.

3.28 DWP’s RAD teams work with providers to investigate fraud and irregularities and part of the RAD process review entails a system review leading to recommendations for improvement. A4e has always implemented these recommendations to the satisfaction of the assurance team. The conclusions of these reviews allow RAD to refresh best practice across the network.

3.29 In addition to these process based safeguards DWP also employ legal safeguards against fraud. Prime Contractors are contractually bound to legal agreements which set out exactly how DWP expect the programme to be delivered. These contracts include specific sections relating to fraud. The fraud clauses in the New Deal Prime Contract required the provider to “pay the utmost regard to safeguarding public funds against misleading claims for payment and shall notify Jobcentre Plus immediately if it has reason to suspect that any serious irregularity or fraud has occurred or is occurring.”

3.30 Under the more recently awarded Flexible New Deal contracts, DWP has tightened the legal framework with regards to fraud by placing more prescriptive requirements on providers to reduce the opportunity for fraudulent behaviour. To summarise, prime contractors are expected to have a whistle-blowing mechanism, have staff performance management systems which do not encourage individual staff to make false claims, and ensure that the programme is not delivered by the same staff members who then produce and provide performance information to the Department. These provisions are currently being changed through the contract variation process to align the provisions in all our contracts with DWP to the recent drafting introduced through Flexible New Deal. DWP also included a clause which will see any provider paying an escalating fine for minor and serious fraud/irregularities. These fines are in addition to the repayment of the outcome payments.

3.31 A4e’s internally developed safeguards are comprehensive and proportionate in the context of a system which, whilst paper based and complex, will be inherently open to potential abuse to provider staff intent on committing fraud. A4e believe that the contractual and systems safeguards introduced by DWP on new contracts will drastically reduce the opportunity for fraud.

31 See Appendix 1.
33 This number represents the maximum number of pages that A4e believe can be generated by a single New Deal customer.
34 To illustrate how DWP’s approach to fraud has developed A4e include the fraud clauses from a New Deal Prime Contract and from a Flexible New Deal Contract as Appendix 1 & 2 respectively.
35 This is described at length in paragraphs 4.1–4.7.
Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

4.1 As noted in our response to Q1, DWP has for the first time imposed a contractual requirement under Flexible New Deal contracts to “have an established system that enables Prime Contractor and Sub-Contractor staff to report inappropriate behaviour by colleagues in respect of Provision performance claims”. By enshrining this in the contractual terms of all future welfare to work contracts DWP will ensure that providers have systems in place to enable “whistle-blowing”.

4.2 Until recently A4e’s measures relating to whistleblowing formed part of the wider A4e grievance policy. However, in recognition of the importance the organisation places on having a visible process in place; a dedicated whistleblowing policy has been developed. The policy gives clear guidelines about who an individual with a concern about wrongdoing can go to. A4e are also engaging the independent charity Public Concern at Work (PCaW) who will provide confidential telephone advice to any of our employees who witness wrongdoing at work but are not sure whether or how to raise their concern. If someone finds themselves in this position, PCaW will help identify how best to raise the concern, ensuring protection for the individual and maximising the opportunity for any wrongdoing to be addressed.

4.3 Our policy also clearly states that any member of A4e’s staff found to have victimised a bona fide whistleblower will be subject to disciplinary procedures.

4.4 To further strengthen our control framework A4e recognise that it is important to engage with our staff on an ongoing basis, and so commissioned Deloitte to assist us in identifying areas and opportunities that could expose the organisation to fraudulent and other unethical behaviour. This included conducting a web-enabled survey designed to provide valuable insight into areas of fraud susceptibility, our ethical culture and the actual impact of A4e’s fraud and ethical risk management programmes.

4.5 Anonymous feedback was sought from all of our employees and Deloitte independently received and collated the responses. A4e received the interim results from Deloitte in w/c 28 September 2009 and are currently reviewing the findings. The organisation expects to use the findings to drive evidenced based development of the organisation’s systems of control.

4.6 A4e’s commitment to ensuring its staff will always have an outlet for raising their concerns means that this process will be revisited periodically in order to ensure that the organisation’s approach to wrongdoing of any kind remains consistently vigilant.

4.7 The combination of both contractual direction and welfare to work providers’ innovative approaches will mean that there is sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme.

Does DWP’s contract management approach ensure the quality of service received by customers is commensurate with the level required under the contract terms?

5.1 Historically DWP has used contract procurement as an important driver of quality of service. Providers have to set out how they propose to ensure service quality in tender submissions. However as the duration of contracts has been extended, the ability of procurement to have an ongoing impact on quality becomes reduced.

5.2 In response, DWP’s approaches to maintaining quality of service are evolving. The Department has established a Quality Framework which draws together a number of different methods for ensuring quality of service.

5.3 Continuous Self-Assessment and Provider Development Planning

Following the award of a contract, providers complete a Quality Assessment Questionnaire (QAQ), which will give information about the quality of the provision they are about to deliver. The QAQ is used by the DWP Contract Manager to award a quality risk rating which informs the management of the contract. The QAQ will also be used by providers and DWP Contract Managers to discuss and agree actions for the coming year. These actions are recorded on the provider’s Contract Start-up Plan until their first Provider Performance Review after which the Provider Development Plan is used.

5.4 Independent External Inspections

Providers of post-16 government funded training or education are covered by the Learning and Skills Act 2000 and are subject to independent inspection by Ofsted in England and Estyn in Wales. The key purpose of inspection is to: give an independent public account of the quality of provision, the standards achieved and the efficiency with which resources are managed and help bring about improvement by identifying strengths and areas for improvement.36

36 DWP (2009) Quality Framework
5.5 Star Ratings

DWP has developed a provider ratings system where providers are given scores based on the delivery of performance outcomes, quality of provision and compliance and contractor issues. Each of these three areas has a number of Key Performance Indicators (KPIs) and measures. The scores for these are added together to produce a Star Rating for each contract. The Job and Sustained Job Outcome KPIs are based on relative assessment. The relative assessment element compares performance against targets set out in each individual contract and ranks these against other contracts delivering the same provision. Points are then awarded to each contract based on where it appears in the ranked order. The Quality and Compliance and Contractor Issues KPIs are measured against predetermined benchmarks.37 Currently DWP only monitors Employment Zone contracts against this tool but has indicated that it intends to apply the Star Ratings system to Flexible New Deal.

5.6 Other Measures

In addition to the Quality Framework DWP is also testing the impact of competition on the quality of services. Employment Zones, Pathways to Work and Flexible New Deal have seen multiple providers to deliver in a single Contract Package Area. These customer choice districts create small discrete markets and force multiple providers to compete with each other on quality of provision and performance. DWP has indicated that in Flexible New Deal customer choice districts it will use Star Ratings as a mechanism for rewarding provider performance. DWP will shift market share away from the weaker performing provider to the strongest.38

5.7 The contract management processes needed to assure service quality are evolving and DWP recognises this. Current contracting rounds are leading to the creation of larger contracts where providers have a deep impact on the employment outcomes in an area. It is important that contract management becomes a partnership based approach, with open and transparent systems allowing both the provider and DWP to track performance and quality. The focus of contract management should be on improvement and best practice with DWP using the benefit of its interaction with different providers to promote and facilitate performance. Good contract management should also be about making informed judgement and having flexibility to adapt to changing circumstances, particularly over a longer contract term. Contract managers need the skills and insight to define appropriate challenges for providers in the circumstances they are tackling in local economies that will recover from recession at different pace, with an unequal impact on performance.

5.8 Current systems across contracted programmes are more focused on compliance rather than continual improvement and we believe it is to the benefit of future service quality that this balance is redressed. This means making a substantial investment in the skills of DWP contract management teams and ensuring providers make the ongoing commitment to invest in service quality and improvement over the life of the contract.

5.9 Systems across the board need to be more engaged with customers so that they have a real voice and impact on service quality measures. This is essential if employment services are to become service led treating service users as both experts and customers.

Do DWP and the National Audit Office effectively monitor the accuracy of providers' management information systems, provider performance against targets, and the evidence on which provider payments are claimed?

6.1 DWP employs Financial Appraisal and Monitoring (FAM) and Risk Assurance Division (RAD) teams to monitor providers MI, performance and evidence on which provider payments are claimed.

6.2 In A4e’s experience DWP’s FAM functions in particular have become increasingly poorly matched to the task that they are expected to do. This is because the structure and terms of reference for the function have not evolved with fundamental changes in contracted employment provision. Provider feedback and DWP’s own recognition of a need to reform this area of their organisation has led to a substantial program of change. DWP expects to have a new function in place for 1 October 2009.39

6.3 A4e expects that the new function will be far better adapted to providing a robust assurance to the welfare to work market. Key changes include:

- Moving from a regional to a national level—this better reflects how the Welfare to Work market has evolved.
- Rationalised lines of communication between DWP and providers.
- Staff specifically qualified in Audit.

37 DWP (2009) Star Rating system
http://www.dwp.gov.uk/supplying-dwp/what-we-buy/welfare-to-work-services/star-rating-system/

38 DWP (2009) Moving Market Share in FND

39 More detail on the upgrading of the FAM function can be found at 08/06/09 (DWP) Notice to Providers—Changes to the Financial Appraisal and Monitoring (FAM) of Contracted Employment Programmes
6.4 The evidence requirements which DWP places on provider payments are based on National Audit Office criteria. The documentation that providers submit to evidence job outcomes is subject to ongoing review. As of 27 January these criteria are:40

6.5 Written statements as opposed to oral evidence; Independently validated—ie obtained from an independent source. Restricted to official access—DWP accept only official supporting employer documentation (letterheads, business cards, etc.)

6.6 As noted in our response to Question 1, the evidence requirements outlined above will become less important under Flexible New Deal. Job outcome payments made to providers will be claimed via the PrAP system, and will be verified by off-benefit checks.

6.7 Aside from providing guidance to DWP on acceptable forms of evidence the NAO has periodically reviewed Contracted Employment Provision. In 2007 NAO published “Helping people from workless households into work”; the report concluded that the current range of employment programmes had been successful for those who participate in them.

6.8 A4e is currently contributing to a NAO review of the value for money of the Pathways to Work programme. In particular NAO was interested in how well DWP, JCP and A4e were working together in the South West. The final report is due in February 2010 but informal interim feedback has been very positive about the excellent partnership working.

How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?

7.1 The centralisation of contract management has been necessary to facilitate DWP’s role as market stewards, allowing DWP to take a more strategic view of contract management. In A4e’s experience centralising contract management has enabled a better quality of engagement between DWP and providers at a senior level and better reflects providers own structures for managing contracts. Better engagement around contact management has in turn provided a greater degree of shared understanding about contract performance and best practice.

7.2 In A4e’s experience this shift in functional responsibility has not come at the cost of either customer experience or a diminishing role for Jobcentre Plus at a local level. JCP continues to be an essential local partner, both in ensuring compliance with agreed working practices and standards embedded in Provider Guidance and in collaborating with Providers to provide the best experience to customers. It remains essential that there continues to be a close relationship and a level of pragmatic autonomy at a local level through a close working relationship between Jobcentre Plus and A4e staff.

7.3 There are many examples of local partnership working between JCP and A4e. For example, in rural areas of Devon and Cornwall A4e and JCP have combined delivery sites so that A4e and JCP staff work alongside each other. This has ensured that the programme of support runs seamlessly for the customer. Partnership also promotes excellent working practices between the organisations.

7.4 Furthermore A4e is currently working closely with DWP and JCP to support the JCP growth programme. A4e, alongside other providers, is examining ways of working with JCP to combine other delivery sites in order to ensure better joined up services for customers and to ensure best value for tax payers.

Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

8.1 The rights and responsibilities of benefit claimants and the welfare state have been central to the welfare reform agenda for some time. The Customer Charter sets out clearly the rights and responsibilities of both advisors and its customers. A4e understands that Employment Related Services Association (ERSA) is currently working with DWP to finalise a version of the customer charter which will be specific to contracted employment programme providers. DWP’s customer charter has captured the central tenets around the interaction between the customer and the employment programme provider (whether it is JCP or a contracted provider).

8.2 A4e would recommend that a Customer Charter is prominently displayed as a poster in all delivery offices (JCP or contracted provider). The impact of the Customer Charter will be determined by two key factors: its implementation and the underlying relationships between staff and customers.

8.3 Implementation—It is important that the implementation of the Charter is handled appropriately. Advisors should understand the importance of the charter and why the charter is being adopted. Failure to get “buy in” at a local level would reduce this to a superficial bureaucratic exercise unlikely to change the interaction between staff and customers. It is also important that the Charter features in the first contact made between customers and advisors. The advisor needs to draw the customer’s attention to the charter and explain what the charter means for them.

8.4 Relationship—it is important that the charter is not seen as a substitute for a strong underlying relationship between the customer and JCP staff. In particular the charter should not absolve the advisor from treating each individual with respect.

*Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?*

9.1 Our sub-contractor network provides A4e with delivery capacity in areas where the organisation does not have a presence and it provides A4e with specialist expertise which the organisation does not have, without it A4e would not be able to fulfil contractual obligations to DWP and would not be able to provide customers with the richly tailored provision currently on offer. Last year A4e worked with 173 sub-contractors to deliver welfare to work services and the value of the work which A4e subcontracted equates to £12.8 million or 14.5% of our welfare to work turnover in the UK for the same period. A4e is set to further increase the number of sub-contractors used under Flexible New Deal.41

9.2 A4e believe that Prime Contractors have a duty to ensure the long term sustainability of the welfare to work market. This means working in partnership with sub-contractors and ensuring they are able to continue to play a valuable role in the delivery of welfare to work provision.

9.3 It is in the prime contractor’s commercial interest to ensure that their supply chain meets all appropriate quality and performance targets as the prime contractor is accountable for the quality and performance of all delivery of services by the supply chain. A4e have Partnership Managers in Flexible New Deal operation, for example, whose role it is to monitor quality in the supply chain and promote continuous improvement. A4e is committed to working with a diverse range of partners and as part of that commitment A4e recognise that part of our role as prime contractor is to capacity build smaller organisations in terms of training, seconding support, providing access to tools and processes. A4e believe this strong mutual interest is essential to sustainable performance.

9.4 In the first instance supply chains will be transparent to DWP at the point of contract award. If DWP has issues with the way a potential prime contractor is proposing to treat their supply chain they can award the contract to somebody who will take a more sustainable approach to their supply chain.

9.5 DWP have also made it a condition of Flexible New Deal contracts that many of the contractual requirements in the Prime contract are flowed down through to sub-contracts. These provisions relate to areas such as fraud, security and data protection.

9.6 Alongside these measures designed to build in transparency and accountability before delivery begins DWP is in the process of establishing a code of conduct for supply chains.

9.7 The code of conduct was proposed as part of the DWP’s commissioning strategy. The code is intended to cover key values and principles of behaviour in relation to establishing a supply chain and the subsequent treatment of that supply chain to support the code of conduct there will be an underpinning accreditation scheme and dispute mediation service. Merlin accreditation will confirm that providers are adhering to the code of conduct. The mediation service is intended to be invoked as a tool of last resort when a dispute between providers cannot be resolved by other means. These services are in early stages of development.42

9.8 DWP’s role in the protection of supply chains needs to be carefully balanced against the need to ensure that the benefits derived from allowing the top tier of quality Prime Contractors to use their position to find “what works” is not needlessly impeded. Imposing too many barriers will return the welfare to work market to an era of micro-management, albeit by proxy.

*October 2009*

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**Memorandum submitted by the City Strategy Pathfinders Learning Network (EP 08)**

To support the sharing of ideas and good practice between the Pathfinders, a Learning Network was established by DWP. Rocket Science currently manages the Network and drafted this submission on behalf of Pathfinders in close consultation with them. It reflects their knowledge and experience of DWP contract management and procurement arrangements.

41 We have over 40 end to end and specialist end to end partners and over 100 intervention partners.

42 The contract for the provision of these services was awarded in August 2009.
Inquiry into the Management and Administration of Contracted Employment Programmes

1. The City Strategy Pathfinders (CSPs) programme aims to tackle worklessness in the most disadvantaged communities across the UK. The 15 pathfinder areas include many that are furthest from the Government’s original aim of 80% employment, most of which are in the UK’s major cities and urban areas.

2. The Pathfinder pilot is based on the idea that local partners can deliver more if they combine and align their efforts behind shared priorities, and are given more freedom to try out new ideas and to tailor services in response to local need. The Pathfinders will test how best to combine the work of government agencies, local government and the private and voluntary sectors in a concerted local partnership (consortium)—to provide the support jobless people need to find and progress in work. They aim to:
   — Ensure provision is more attuned to the needs of local employers; and
   — Ensure those most disadvantaged in the labour market can receive the help and guidance they need.

3. To support the sharing of ideas and good practice and facilitate communication between the pathfinders, DWP established a Learning Network. Rocket Science currently facilitates and manages the Learning Network. This submission was drafted by Rocket on behalf of Pathfinders and reflects their knowledge and experience of DWP contract management and procurement arrangements.

4. In responding to the Committee’s call for evidence, Pathfinders have focused comments on questions five and seven, pertaining to the impact of centralisation of contract management and to ensuring transparency, areas where Pathfinders have the most significant experience.

5. Pathfinders are particularly well embedded in their localities, with strong relationships across the public, private and third sector provider and employer base. CSPs have been charged with bringing greater alignment, coherence and effectiveness to employment and skills provision in their areas. To do this, partnerships have been established and developed that include the key stakeholders relevant to employment and skills—in particular, local authorities, the Learning and Skills Council, the employer voice and Jobcentre Plus. As such, they are able to bring additional insights from a local level to contract management. Yet to date, Pathfinder experience suggests that both the mechanisms and the will to fully involve them and bring about local accountability remain incomplete and have not maximised the potential of the Pathfinder experiment. Indeed, the Committee report DWP’s Commissioning Strategy and the Flexible New Deal highlighted that there appears to be, “considerable ambiguity surrounding the role of local partnerships in the monitoring process”.

6. In part this is a consequence of the increased centralisation of contract management within DWP that has seen a reduced role for Jobcentre Plus (JCP) district managers. As JCP is a key partner in the Pathfinders, the shift of contract management and oversight away from district managers is perceived to have weakened CSPs’ communication link into the performance management system. And, because major providers tend to look to their contract managers within DWP, Pathfinders as a whole perceive that they have less influence and authority with which to fulfil their role of bringing about greater alignment of provision.

7. The reduced opportunity for Pathfinders to report back via district managers their collective, grassroots knowledge about the fine-grained performance of major employment contracts can impact on, in particular, the customer experience. Delivery issues on the ground can potentially be overlooked by contract management processes that are less closely involved in the local area. David Coyne, of Glasgow Works CSP, summarised the situation in the Committee’s previous report on Flexible New Deal:

   “The role of local partnerships in the management of the contracts as it goes forward is very unclear. The DWP [. . .] indicate that there is a relationship with them in managing things on an ongoing basis through district management level in Jobcentre Plus, but even Jobcentre Plus are now distant from the contract management processes. So having a district manager on a partnership board, there is no guarantee that there is any influence over a contractor.”

8. Provider engagement meetings (PEM) have been recently introduced as a mechanism to bring an element of local accountability, with DWP contract managers and JCP district managers meeting with major providers to discuss progress and issues affecting provision. There is scope to include Pathfinders in this process as well, indeed, some have already been involved. This is a positive step as Pathfinders have been keen to be closely involved in management processes and had previously identified this kind of “one conversation” model as the most effective for ongoing performance management.

9. However, at present there has been limited engagement by Pathfinders with the PEMs. As a new mechanism, this may improve as it beds in over time. Nonetheless, there is some early evidence to suggest that the PEMs may not, as yet, be operating in the way intended—as a forum for Pathfinders (and others) to be informed about monitoring and performance, or to influence the alignment of contracted provision. It is important that Pathfinders are able to use this kind of “route to influence” effectively or there is a risk that the desired improvements to the coherence of the system as a whole will not happen in the way envisaged when the Pathfinders were created and the prime contractor regime introduced.

43 HoC DWP Select Committee, DWP’s Commissioning Strategy and the Flexible New Deal UK Parliament, 2009, p52
44 Ibid
10. Pathfinders are also concerned to highlight to the Committee issues around the ability for a wider range of partners to be actively involved in the full cycle of contract management. Mechanisms implemented to bring the Pathfinder voice to procurement processes and institute an element of local accountability include front-end consultation with CSPs on specifications and involvement in assessing invitations to tender (ITTs). However, Pathfinders have identified a number of issues with the implementation of this approach. These include:

- Lack of notice to comment fully on specifications and bids.
- Rigid scoring and feedback processes and proformas that do not allow for local knowledge on performance to be accurately fed back.
- Insufficient time provided to develop co-commissioning bids.
- Lack of feedback on how or whether Pathfinder comments have influenced and reshaped specifications or scoring outcome of bids.
- Further, a lack of a local dimension in ITTs requiring contractors to detail how they will engage with and address local issues.

11. Further, pathfinders hold the view that contractors should be expected to participate in local planning structures, as requested by the partnership, and required to be flexible in the operation of the contract to support local strategies and align service delivery with local programmes to add value as directed by local partnerships. Contractors should actively engage with local partnerships to access partnership support for there delivery and to provide performance information linked, where possible, to local data management systems.

12. Pathfinders welcome the opportunity to bring a local nuance to service specifications. However, these consultation processes do not currently provide for the level of involvement with, and influence over, delivery and performance management in their local areas that Pathfinders aspire to. Crucially, these consultation processes have not yet led to the Pathfinders having confidence that their local knowledge is being most effectively used to ensure that provision is consistently excellent and responds to local needs.

13. Pathfinders are a time-limited pilot set up to test new ways of collaborating. Many are in the process of evolving as the employment and skills element of multi-area agreements or community planning partnerships, or taking their collective work forward through other governance arrangements. Going forward, the establishment of the Provider Engagement Meetings would need to take account of these structural changes.

14. Pathfinders have also raised issues around how transparency can be ensured by contract management within the prime contractor model, particularly as it relates to sub-contracting. Pathfinders were concerned that, in their experience, the evidence included in bids about the bidder’s partnering or subcontracting relationships is less closely examined than it ought to be by DWP, particularly if they wish to be sure that those relationships are as strong as claimed. For example, Pathfinders report that they have found themselves characterised as “key stakeholders” or “delivery partners” in bids after only very limited contact and superficial relationships with some potential primes. Further, that when Pathfinders have been asked to comment on the strength of partnerships in bids, the scoring system proformas provided to do so work against the CSPs accurately communicating local information about the true health of the partnership.

15. In terms of maintaining a role for subcontractors, there is only modest confidence that tools like the “letter of intent” are sufficient safeguard for subcontracting arrangements. The development of a coherent and effective supply chain is critical to ensure that prime contractors deliver value for money and outcomes for DWP. This is set against managing specialised and localised provision to ensure that contracts deliver the best service for the customer. The traditional contracting process has embedded a culture of competition that undermines the ethos of collaboration required for the model to be effective. Maintaining a fair and reasonable role for subcontractors and a healthy supply will require vigilance and monitoring of the Code of Conduct.

16. Additionally, Pathfinders noted a capacity issue around smaller, especially third sector, providers and their ability to engage with the prime contracting agenda. They see themselves as potentially having an important role as information conduits, honest brokers and suppliers of (or sign-posters to) mainstream and specialist capacity building support. Pathfinders suggested that potential primes could themselves improve transparency and increase opportunities by hosting information events for potential subcontractors (especially small and third sector organisations) and providing information packs that outline the general terms and conditions a subcontractor could expect.

17. Given the length of the contracts, there has also been debate about capacity building for smaller providers over the life of the contract. This kind of activity is not currently built into the specification. Pathfinders would request that, during the tender stage, contractors are asked about (and scored on) their approaches and resources for supply chain development. Pathfinders believe that this should be reflected in the contract management process and provide the opportunity to respond, during delivery, to any lack of proactive effort in reaching out to smaller, specialist providers.
18. Local intelligence is central to informed contract management that ensures effective delivery for customers. Pathfinders have been concerned that the changed role of JCP district managers has weakened their conduit to contract management processes. While mechanisms exist to involve Pathfinders and JCP, there is scope to improve the implementation of these and both increase the alignment of contracted employment services with local strategies, as well as bringing local oversight to their management.

19. City Strategy Pathfinders and most Local Authorities have area-based targets (ie through Local Area Agreement Targets: NI 152 and NI 153) to narrow the performance gap in specific geographies. Yet these targets are not reflected in DWP contracts. This is fine, to an extent, for mandatory programmes like FND, but for programmes focusing on the inactive like NDLP and Pathways, and particularly where providers are now allowed to generate their own referrals (eg through ESF activity) providers should be set targets for specific geographies. If either local or national PSA area-based targets are ever to be delivered, then all parts of the delivery system need to be incentivised to contribute towards them. This must include DWP contractors as well as JCP through their JOT points and targets.

20. One of the key issues in relation to DWP contracts is the number of referrals from JCP. Some pathfinders have reported low (and quite often inappropriate) referrals for Programme Centres at a time when on flows to JSA were more than doubling. This was not an issue with the provider, but with JCP’s interaction with the provider. Despite talking to DWP contract managers as well as the provider and local JCP District, the issue was never resolved. It was clear from this experience that the risk management approach that DWP contract managers take to the individual provider, as opposed to looking at the performance of the individual contracts, means that they do not intervene, or even question, poor performance on some contracts if the provider’s overall performance across the country is within tolerance. This lack of effective contract management in some areas leads to DWP money being wasted and people not accessing the support that they need and that has been bought for them.

21. The approach to commissioning (Level 1, 2 and 3) that DWP have set out is one of the clearest and most positive moves to come out of central government in relation to devolution, and Pathfinders feel that this would not have been so developed without the thinking and support of the City Strategy Pathfinders.

22. Whilst pathfinders very much welcome the opportunity to use local resources to expand/enhance DWP contracts through Level 2 commissioning arrangements, the next step would be to develop a similar ability to enhance JCP delivery. This could be through buying extra outreach staff, or to buy extra staff to allow them to spend more time with customers, particularly in the current climate where JCP staff resources are stretched.

23. Despite the very positive approach of the DWP Commissioning Strategy to encouraging providers to make the most appropriate strategic and delivery links, some pathfinders can not see that much has changed in relation to the provider base. DWP, along with the old DIUS department through Work Skills, have spoken about local partners having a role in relation to “market stewardship” ie helping to develop a healthy and responsive provider market. Pathfinders would welcome any recommendations from the Select Committee about how best this can be taken forward.

October 2009

Memorandum submitted by the National Autistic Society (EP 10)

The National Autistic Society welcomes the opportunity to submit evidence to the Work and Pensions Select Committee inquiry into the management and administration of contracted employment programmes. The NAS believes that the Department for Work and Pensions needs to:

— Develop a customer charter that ensures that individuals are aware of their rights to employment support.
— Work to ensure that prime providers are supporting all of their clients not just those closest to work.
— Ensure that the use of large prime contracts does not undermine customer choice.
— Do more to monitor the relationship between prime and sub contractors.
— Carry out a more thorough Disability Equality Impact Assessment for the new Work Choice programme.

ABOUT US

1. The National Autistic Society (NAS) is the UK’s leading charity for people affected by autism. We were founded in 1962, by a group of parents who were passionate about ensuring a better future for their children. Today we have over 18,000 members, 80 branches and provide a wide range of advice, information, support and specialist services to 100,000 people each year, including a welfare rights helpline and Prospects, the NAS’ specialist employment service for people with autism. A local charity with a national presence, we campaign and lobby for lasting positive change for people affected by autism.
About Autism

2. Autism is a lifelong developmental disability that affects how a person communicates with, and relates to, other people. It also affects how they make sense of the world around them. It is a spectrum condition, which means that, while all people with autism share certain difficulties, their condition will affect them in different ways. It affects around one in every 100 people. Some people with autism are able to live relatively independent lives but others may need a lifetime of specialist support.

3. Asperger syndrome is a form of autism. People with Asperger syndrome are often of average or above average intelligence. They have fewer problems with speech but may still have difficulties with understanding and processing language.

Autism and Employment

4. Currently, only 15% of adults with autism are in full time employment but many want to work and have a lot to offer employers. However, people with autism face many challenges in applying for work and in the workplace itself. People with autism often need long term, specialist support to overcome the communication barriers associated with autism and find work.

5. With the right support, people with autism can thrive in the workplace. The NAS’ employment service, Prospects, is a specialist service supporting people who have autism into mainstream jobs. They have a very successful record of helping people find and retain work. Between 1995 and 2003, 67% of the clients they supported found work. Furthermore, 70% of the pilot scheme’s beneficiaries from 1995–97 were still in employment in 2003.

Context

6. We do not believe that the only way to deliver employment support is through the prime provider model and we would prefer the DWP to continue to contract directly with all providers. By retaining direct control of all contracts the DWP could ensure that prices reflect the real costs of supporting those facing the greatest barriers into work, that provision is fairly distributed across both rural and urban areas and that support is delivered to all client groups.

7. Furthermore, in the case of Work Choice, the rationale for moving to provision based around prime providers is that people have multiple and complex needs and that services focused on just one of these needs fail to provide all the support necessary for the individual to move into work. However, the reality of the intended prime-sub relationship is that people will continue to receive support according to their impairment and there will just be an extra layer of administration put into place before this happens.

Response

Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

8. The DWP customer charter should clearly identify the rights of those accessing employment services and the value of such a charter has been recognised by the (then) Secretary of State for Work and Pensions (James Purnell) and we also welcome the recognition of the importance of a customer charter by the Work and Pensions Select Committee.

9. The customer charter recently developed by the DWP does set out some of the rights and responsibilities of individuals accessing Jobcentre Plus services. However, we feel more needs to be done to make people aware of the support available and also to ensure that people understand the full implications of the sanctions regime.

Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub-contractors?

10. Many people with autism have high support needs and it can therefore cost more to support them into work relative to other clients. With private providers delivering the majority of contracts we are concerned that the focus on profit will result in the neglect of those who may cost more to support.

11. Again, we welcome the Work and Pensions Select Committee’s recognition that under the current payment structure “parking” and “creaming” are a real risk. To address this it is crucial that there is rigorous monitoring of prime contractors and this must include different impairment groups in order to ensure that DWP employment programmes are working for and being accessed by all disabled people and that individuals are not being “parked”.

45 The term autism is used throughout this document to refer to all people on the autism spectrum including Kanner autism, Asperger Syndrome and high functioning autism.


12. Furthermore, whilst many prime providers rely on specialist sub contractors to deliver support to those with more complex needs we are concerned that the price offered will lead to specialist providers being forced to either deliver support at a loss or leave the market. These concerns are based on the fact that those prime providers motivated by profit will bid for the contract using costings based on the profit margin that would occur through supporting the minimum number of clients into work. Again, the profit motive implies that these would be those clients easiest to support as they have less expensive support needs and are more likely to produce quick returns for the prime. Therefore, by the time the prime provider approaches the sub contractor to deliver more specialist support there is not enough money in their budget to enable them to offer specialist providers, who do not have the benefits of economies of scale, a realistic price for this support.

13. The reality of the threat posed by the prime contractor model to smaller, non-profit providers is demonstrated by the experience of New York City where the introduction of the prime contracting model saw the loss of many of these smaller organisations. Many of these smaller, specialist providers are charities who cannot afford to make a loss.

14. Altogether, this will have a negative impact on those clients who need more intensive support and also risks a loss of specialist knowledge and support from the employment programme market.

ADDITIONAL CONCERNS

Customer choice

15. We are concerned that the use of large, regional contracts to provide DWP employment programmes will severely limit customer choice. Although the DWP is committed to rating providers, this information will be of little use unless customers are able to choose alternative provision.

Code of Conduct

16. Without tighter monitoring of the relationship between prime contractors and subcontractors, those with the most complex needs are likely to miss out on specialist support. If prime providers are to successfully engage with sub contractors it is important that there is a strong Code of Conduct governing this relationship. It is also vital that there is independent adjudication available for when disputes between prime providers and subcontractors arise. The Merlin Standard has the potential to address this and it is vital that it introduces tighter regulation of the prime-sub relationship.

Disability Equality Impact Assessment for Work Choice

17. The DWP are currently issuing contracts for Work Choice, the employment programme to replace Workstep and Work Preparation. We are worried that the current disability equality impact assessment, contained within the impact assessment of “Raising expectations and increasing support—reforming welfare for the future”, does not adequately address the impact of Work Choice on different groups of disabled people.

18. The current disability equality impact assessment is as follows:

Re-shaping and providing additional funding for the successor to WORKSTEP and other specialist disability employment programmes

692. There is a risk that a better resourced and reformed programme does not target the support it provides at groups of disabled people with the greatest need for the support it provides. Around 8 per cent and 36 per cent of customers on WORKSTEP are people whose disability is, respectively, poor mental health or a learning disability. Both groups are disadvantaged by particularly poor work opportunities.

693. The new programme, which was consulted on earlier this year, will be less prescriptive and more flexible than current arrangements, with a greater focus on those who need specialist support. Our proposals help to promote equality through incorporating improved progression to unsupported employment and a greater focus on job entries for customers who reach the stage at which they could work without support.

694. The Department has recently commissioned A Baseline Survey of WORKSTEP customers which will encompass a quantitative and qualitative survey. The fieldwork is due to take place in the first half of 2009 and is due to report in late summer 2009. The results of this survey will form a baseline for a future evaluation of our reformed programme. We are committed to producing a full evaluation strategy for the new programme by early 2010, in time for implementation when the new programme is introduced.

19. Given the extent of these reforms and their potential impact on people with autism we feel that the existing disability equality impact assessment is inadequate and a more comprehensive assessment needs to be carried out.

October 2009

Memorandum submitted by Reed in Partnership (EP 11)

KEY SUMMARY

— Reed in Partnership welcomes the Select Committee inquiry into the management and administration of contracted employment programmes. The welfare to work sector has made a significant investment in ensuring the integrity of the claims system. Many providers have put in place robust measures to reduce the potential for fraud which go above the minimum DWP standards. The Select Committee may wish to look at these models to examine how these quality controls can be established across the industry.

— The DWP contract management system focuses very much on ensuring compliance. We believe that there may be a need for the Department to look more at how it can improve provider performance and also ensure that the quality of the service being delivered is of high quality. This could be achieved by a greater focus on innovation and partnership working across the sector.

— If the Star Ratings are going to be a way of genuinely measuring provider performance then further work needs to be undertaken in order to ensure that they genuinely reflect the outcomes and service being delivered.

— In terms of the centralisation of contract management, we would argue that there is still a need for greater clarity about how the more centralised model of contract management works at the local JCP level. This is more important as contracts grow and cover numerous JCP districts.

— We welcome the development of a Customer Charter as a way of ensuring greater clarity about the rights and responsibilities of people taking part in employment programmes.

ABOUT REED IN PARTNERSHIP

1. Reed in Partnership was formed in 1998 as the first private sector provider of New Deal services with an £8 million contract in London. Since then we have delivered and managed over 50 DWP/JCP contracts with a combined value of over £400 million. We now manage large contracts across London, Yorkshire, Merseyside, Cambridge, Suffolk and Scotland working with around 100 subcontractors, 2,000 partners and over 25,000 employers. Over the past 10 years, we have helped over 200,000 disadvantaged customers with improved motivation, skills, and jobsearch capacity, with over 94,000 finding sustained employment.

2. Our business has expanded and diversified throughout this period with the addition of contracts for Learning and Skills Councils, Regional Development Agencies and Local Authorities. Through these contracts we have promoted skills development, provided support to businesses and managed grant funding. In addition, we now have operations in Australia and Poland where we are supporting both new claimants and the long-term unemployed.

SAFEGUARDS WITHIN THE WELFARE TO WORK SECTOR

3. Reed in Partnership welcomes the Select Committee inquiry into the management and administration of contracted employment programmes. The welfare to work sector has grown significantly in the past ten years. With this growth has come more developed systems to prevent fraudulent claims and a growing awareness of the need for providers to regularly review and ensure that robust systems are in place.

4. Whilst we would in no way wish to downplay the recent media reports that have emerged, it is important to place these stories within the context of the overall industry. Every day tens of thousands of people receive help and assistance from private, voluntary and public providers across the UK. The overwhelming majority of people working within the industry are dedicated and honest professionals looking to do the best for their customers. However, there is a need for everyone in the industry to be aware of the risk of fraud and for all providers to constantly challenge whether better and more robust systems could be established.

5. Reed in Partnership recognises that fraud is a potential risk to the business. We have therefore put in place a number of central systems to ensure that clear policies and practices underpin all of our programme delivery. These systems include: a Risk Management Board; comprehensive policies, ethical codes and a whistle-blowing process; the development of an ethical culture across all parts of our business; independent internal audit and comprehensive financial controls; and a supply chain management process that integrates subcontractors into this approach.

Case Study: Our recruitment, training and culture of ethical behaviour are key elements in preventing fraud. Staff are recruited through a full day assessment process which includes competency based testing and ethical behaviour assessment.
Our staff undertake Business Ethics training so they are made aware of the various policies that are in place and have an understanding of the standards we expect from our employees. In addition, our business is underpinned by a set of six core values (Accountability, Honesty, Efficiency, Forward Thinking, High Performing and Customer Focus) which represent how our staff approach their work and the decisions they make. These values are highly visible across our business.

6. The DWP process for ensuring the accuracy of job outcomes looks very much at whether providers have accurate paper records in place. With the move towards checking whether customers have left benefits, the risk of fraud should be reduced. However, many providers have developed their own systems which go above and beyond the DWP requirements to ensure the accuracy of job outcome claims. The DWP may wish to look at whether it should require increased minimum standards from providers to ensure greater consistency across providers.

7. Reed in Partnership has very robust measures to reduce the potential for fraud. This includes the establishment of an independent Internal Audit team who are completely removed from the operational side of the business. Our financial control procedures, subject to regular risk assessment, help to ensure the validity of outcomes through our five stage evidencing process:

1. The Personal Adviser inputs the outcome on our Orion MI system and then passes the file to the Quality team.
2. The Quality Manager conducts a full file check to ensure that the whole file is compliant. The Quality Manager then authorises the outcome to move to the verification stage.
3. The outcome is transferred electronically to our Evidence Collection Team who obtain evidence of the employment. All telephone contact with employers is recorded.
4. Evidence of the outcome is verified by the Finance team, making it a claimable event.
5. The outcome is then claimed for payment via our Orion MI system.

8. Within Reed in Partnership, operations have no control over outcome evidence or influence on performance claims. These systems have been put in place at a significant cost to the business to ensure we reduced any potential for fraudulent activity. There may be a role for ensuring that all providers have quality systems that are above current DWP minimum standards.

9. Reed in Partnership would argue that there has to be some trust in the system between the DWP and its providers. A wholly bureaucratic system for quality checks would take some of the focus away from the customers themselves. ERSA has found that providers currently spend 10% of the contract value on evidencing claims.

10. In considering whether to place more stringent checks on providers, there is also the real issue about more onerous controls placing undue bureaucracy on employers. This could result in the customers on employment programmes being placed at a disadvantage. The Select Committee may wish to look at some of the models of best practice and examine how these quality controls can be established across the industry.

**Contract Management**

11. The DWP contract management system focuses very much on ensuring compliance. We believe that there may be a need for the Department to look more at how it can improve provider performance and also ensure the quality of the service being delivered is high quality. For us, this would include greater partnership working at the local level to drive innovation in terms of the customer journey and experience.

12. Reed in Partnership is committed to continuous improvement and is always looking to improve and innovate on the programmes we deliver. The systems in place are very robust in terms of driving quality assurance but we would question whether they truly drive provider performance.

13. There are also some unusual variations in the way that the Star Ratings operate. For instance, Quality Key Performance Indicator’s make up 20% of the points for Star Ratings. This score is intended to look at the delivery of the programme in a particular area with the provider’s self assessment markings being used. The Quality KPI looks at how well learners achieve; the effectiveness of teaching, training and learning; how well programmes meet the needs of their learners; and how well learners are guided and supported.

14. In the most recent Star Ratings published for the Employment Zones in April 2009, one provider scored the maximum 20 points for Quality KPI despite coming 12th out of 24 providers for job outcomes and 11th out of 24 providers for sustained outcomes. Similarly, another contract scored 18 out of 12 for Quality KPI despite coming 19th out of 24 for job outcomes and 16th out of 24 for job outcomes.

15. If we assume that the Quality KPI is important in terms of helping customers into employment, we fail to see how there is such a disparity between the scores for Quality KPI and the actual levels of job outcomes and sustained outcomes being achieved. As this measure relies on the self-assessment of the provider, we believe that Contract Managers may require additional training so that scores can be properly audited. We believe that some refinement is needed if Star Ratings are to be seen as a genuine indication of both the performance and quality of the service being delivered.
Centralisation of Contract Management

16. In responding to the Select Committee’s question regarding the centralisation of contract management, we would argue that there is still a need for some clarity about how the more centralised model of contract management works at the local JCP level.

17. It is our opinion that there needs to be greater clarity between DWP and JCP about who is responsible for contract management, with clear information being provided to JCP. On some of our contracts such as Employment Zones, we are technically managed by DWP. However, the local JCP often request the same information and data as the DWP contract team. This can result in differences of opinion between the DWP contract management team and the local JCP. For instance, there have been instances with marketing material being approved by DWP, only for the local JCP to request changes thereby incurring additional cost and time delay for providers. We run Pathways contracts in four districts—each piece of national marketing has to be signed off by each JCP District Marketing Manager. In Australia the Department for Education, Employment and Workplace Relations (DEEWR) provides clear guidance to providers on central processes without complicated and lengthy sign-off procedures. This is more efficient for providers and taxpayers.

18. We take a very partnership based approach to the contracts we deliver and want to work in cooperation with local JCP offices. There is, of course, a role for JCP at a local level to help inform the behaviour of providers and improve delivery performance. However, as the sector moves to larger contracts across multiple JCP districts we need to ensure that there is a consistency in their approach to this.

Customer Charter

19. We welcome the development of a Customer Charter so that customers, JCP and providers know what they can expect of employment programmes. Reed in Partnership has had its own Customer Charter in place for over five years. This sets out our complaints handling process which is trained at induction to our staff and explained when they start on our programmes. We aim to respond to customer complaints via email or letter within 10 working days and make every effort to resolve the matter as quickly as possible and to the customer’s satisfaction.

20. The DWP Customer Charter should balance the fact that some customers, especially those on mandatory programmes, do not want to take part in activities. We therefore have to ensure that the Customer Charter and any associated complaints procedure does not allow people to “play” the system in terms of delaying their active engagement in training programmes or the Mandatory Work Related Activity element of Flexible New Deal.

October 2009

Memorandum submitted by Association of Learning Providers (ALP) (EP 12)

Introduction

— The Association of Learning Providers (ALP) represents the interests of a range of organisations delivering State-funded vocational learning. The majority of our 472 member organisations are independent providers holding contracts with the Learning and Skills Council (LSC), and Department of Work and Pensions (DWP), for the provision of a wide-range of work-based and work-related learning. Amongst our members we also have a number of consultants, regional networks, and Colleges of FE in membership, alongside nearly 50 charities, giving ALP a well rounded and comprehensive perspective and insight on matters relating to its remit.

— With regard to DWP provision, we estimate that ALP members account for around 20% of all DWP-contracted organisations in England, including half of the Flexible New Deal (FND) Prime Contractors (PCs), nearly half of the New Deal and several Pathways to Work Prime Contractors.

— We have built up strong relations at a wide range of levels within both JCP and DWP and have aimed to place ourselves as a “critical friend”, ensuring that provider views are adequately represented but also ensuring that DWP perspectives are accurately passed back to our membership. We hold two places on the DWP Provision Forum, with a number of our members also independently attending. Our Chairman and Chief Executive have had meetings with Secretaries of State within DWP over a period of time as part of our ongoing high-level interaction.

— Comments from our members pertaining to your inquiry were invited at an early stage. A draft version of this paper was circulated to them for comments prior to its submission, and their responses have informed this final version.

— We believe therefore that we are in an excellent position to pass comment on the aspects of your current inquiry that fall within our remit, and we would be delighted to give oral evidence to the committee should this be required.
SUMMARY

1. The Committee’s inquiry comes at a timely point in the provision of welfare to work services.

2. Although DWP’s new commissioning strategy has been in the public domain for some while, the current introduction of Flexible New Deal (FND) is its first large-scale manifestation. Whilst its introduction inevitably brings with it change and uncertainty in the system, it also brings about an opportunity to do away with the “old” way of doing things and introduce more innovative and more effective methods that may have previously have been inhibited from being embedded because of historical factors. To take an overview of the approach of contract management and administration at this point is therefore not unhelpful.

3. In essence, ALP is positive about FND and the potential for improvement and effectiveness that it brings. Any change however engenders doubt and uncertainty, and we have therefore set out in this submission both to highlight where fears exist amongst the provider base, whilst at the same time taking a balanced view on whether these may be justified and ameliorated. We have also suggested some items for further consideration by the Committee on the back of very recent developments in preparations for FND’s “go-live.”

4. The big positive with FND generally is that it opens up the market and gives an unprecedented level of flexibility to providers to innovate and deliver what is needed, rather than being limited by proscribed boundaries. ALP has long argued for this sort of freedom in the employment and skills delivery markets, and believe there is a strong possibility of a step change in the quality and effectiveness of delivery to customers as a result.

5. We are particularly heartened that some PCs, in particular A4e and STUK, have as part of their preparations for FND established robust quality management and continuous improvement regimes within which their subcontractors will work. The provider base as a whole has long argued that it is in a better place than the many outside agencies who have been given this sort of remit in previous years to understand, establish and implement the changes necessary to make viable operational improvements to their business. The fact that PCs are assuming this role on behalf of the many is a welcome development.

6. Inevitably though with change of such scale, there are many members of ours who are involved in FND that harbour reservations and concerns. From the Prime Contractor (PC) perspective the shift in the payment splits from 20% service charge to 40% service charge was welcome, as any programme—and particularly such a new model—requires a high degree of upfront investment. Given the current economic situation, outcomes also become that much harder to come by, meaning that the PCs are taking a fair degree of risk onboard in putting the necessary levels of investment up to begin with. Therefore for programmes such as this to be viable to run it is important that a proper balance is struck between the desire to encourage and incentivise the attainment of the outcomes required (sustainable work), and the proper maintenance of a flexible supply base able to respond to such demand in an efficient manner. At 20%, there were severe worries about this—at 40% these worries have eased, though given the state of the economy and the increased difficulty of finding work for some of the customers that will be feeding into FND, financial concerns remain paramount.

7. From the subcontractor perspective, they acknowledge the benefits of not having direct contracts and therefore accountability to DWP, and the ability to work commercially with an organisation probably structured much more like themselves. However there is an abiding concern as to whether they are receiving a “fair deal” at the hands of PCs, given that it is actually they who are delivering a very significant part—if not most—of the actual front line delivery. The question therefore arises as to what role DWP should play in stewarding the supply chain to ensure that there is fair play all around and that delivery is not adversely impacted, and we examine this a little more in our response. The Code of Conduct, it is felt, goes some way towards mitigating behaviours between contracting partners but as yet there is not much evidence that it has enough “teeth” to resolve serious problems.

8. This therefore leads us to the main theme underlying our submission—particularly in its early stages, it is important for DWP to offer reassurance and thereby stability to the system by staying initially reasonably close to the supply chain to broker solutions to any disputes or perceived unfairness. We understand that one of the ultimate aims of DWP is to actually distance themselves to some degree from supply chain arrangements below PC level, seeing them as purely commercial agreements, and they are correct in this to a large extent. However, it is understandable that all providers are concerned as to how viable and workable the system will be, and we feel that DWP would be ill-advised to take this sort of step back at too early a stage until the system becomes more embedded, effective and familiar to all concerned. A key way of doing this would be to ensure not only that the Code of Conduct reasonably covers all points needed to ensure fairness and stability in the system, but to ensure that DWP’s contract management approach can “police” it and more importantly be able to act on any breaches in an effective manner.

9. This theme underlies the six broad summary points that we would like to put forward in relation to this inquiry in answer to the specific questions put. These are summarised below and expanded upon in the main body of this document:

(a) The law relating to whistleblowers is reasonable and fair. We do not feel there is evidence from the welfare to work sector of a particular need to strengthen it at this time. (p.7)
(b) Individual customers will have noticed little as a result of DWP’s centralisation of contract management as it is largely a “wiring move”. Although DWP’s commissioning strategy has raised concerns amongst some providers at its implications for companies at subcontract level, we feel that there are probably sufficient checks and balances in the system to ensure these fears do not ultimately materialise and impact upon standards of provision. (p.9)

(c) Particularly in the early stages of FND, we feel that DWP would be wise to stay relatively close to the supply chain in order to give reassurance and stability, with a view to pulling away (should they wish to do so) as the provision becomes more embedded and familiar to those in the training infrastructure. (p.9)

(d) The Customer Charter helpfully brings together and restates fundamental good practice in an accessible and clear form. That said, the Code of Conduct, albeit indirectly, will probably be more important in terms of a positive effect on the customer experience as by providing business security it will free resource for front line services. (p.11)

(e) Whilst there are concerns about the system that must not be overlooked or discounted, we arereasonably confident at this stage that the format of FND, and the way it has been procured, will over time mean that the worst of these can be remedied or found to be baseless. (p.12)

(f) The Committee may like to consider the implications on delivery of having a supply chain whose terms and conditions of business are not visible to DWP via its contract management procedures. (p.12)

(g) ALP would like to see a single, professional Procurement Agency operating on behalf of a range of Government departments, and we would suggest that ultimately any Financial Audit Management activities should fall within the remit of such an agency. (p.12)

(h) ALP is supportive of the PRaP system which we believe on balance, and subject to its proper implementation and use, will be of immense benefit to not only providers but ultimately customers as well. (p.12)

Is there sufficient protection for employees who raise concerns about their employers’ delivery of a contracted employment programme?

— The law relating to whistleblowers is reasonable and fair. We do not feel there is evidence from the welfare to work sector of a particular need to strengthen it at this time.

10. The law provides some protection for whistleblowers and is obviously designed to encourage the use of official channels within the employer’s organisation to raise concerns rather than having them raised externally at what may be an inappropriately early stage. To this extent the law is reasonable and fair.

11. However, one needs only to look at the internet to find that there is a good deal of concern within the industry at some of the practices that take place. This might be seen as an indicator of reasonably widespread unhappiness amongst the workforce that is perceived to still require a cloak of internet anonymity to protect the informant. In itself this is because despite the law’s intention to prevent (for example) missing out on promotion as a result of whistleblowing activity, the feeling is that this still happens, and resorting to the use of the law to remedy it is expensive, stressful and time-consuming.

12. This view, whilst containing more than an element of truth, does need to be heavily qualified however. Looking at the messages posted by disaffected employees on websites such as Indus Delta does often give the impression that many are the result of individual grievances and prejudices rather than evidence of any material or significant institutional wrongdoing. It must also be borne in mind that despite the sector being reasonably confident at this stage that the format of FND, and the way it has been procured, will over time free resource for front line services. (p.11)

13. The question here is whether such activities could or should have been exposed earlier as a result of whistleblowing, and whether the current legal protection did enough to encourage that. It is difficult to say without reference to a good deal more facts about these particular cases, but what can be said is that the inbuilt audit processes can be evidenced in this case to have done their job and found what needed to be found at a major contractor and that no wider problems have been exposed. This would tend to lead to the conclusion that in this case the malpractice was probably reasonably well-concealed from any wider circle of employees.

14. In short, the protection afforded to whistleblowers is seen as reasonable and fair, but well-intentioned rather than being particularly robust. There does not however appear to be any evidence in the welfare to work sector at present that strengthening it would be either an appropriate or desirable move, as the levels of fraud relative to the size of the contracts involved are very low, generally self-contained, and do generally seem to be picked up as a result of audit processes working as they should. There will always be grievances held by individuals, and disagreements about the approach of a company to its customers—but it tends to
be these sort of complaints that find their way on to the internet under its cloak of anonymity, and these are a very different thing to the sort of malpractice that whistleblowing is generally designed and understood to relate to.

How has the centralisation of contract management in DWP impacted upon the role of Jobcentre Plus and both provider and customer experience of outsourced employment programmes?

— Individual customers will have noticed little as a result of DWP’s centralisation of contract management as it is largely a “wiring move”. Although DWP’s Commissioning Strategy has raised concerns amongst some providers at its implications for companies at subcontract level. We feel that there are probably sufficient checks and balances in the system to ensure these fears do not materialise and ultimately impact upon standards of provision.

— Particularly in the early stages of FND, we feel that DWP would be wise to stay relatively close to the supply chain in order to give reassurance and stability, with a view to pulling away (should they wish to do so) as the provision becomes more embedded and familiar to those in the training infrastructure.

15. There is certainly a difference in approach between DWP centrally and JCP in their contracting processes as a result of the Commissioning Strategy. In particular, the movement to a strongly Prime Contractor-centred approach means that much more provision will be of a subcontracted nature as opposed to being directly under the hand of DWP. However from a customer perspective this would be a very subtle difference and at an individual level would probably be virtually undetectable, as it has largely been a “wiring move” rather than anything particularly customer-facing.

16. This does however mean that actual delivery of provision takes place at more of a distance from DWP than was the case in previous CEP incarnations. Whether or not this is a good thing is a matter of some debate amongst the provider base. On the one hand it can be argued that given a robust procurement regime that selects strong and suitable Prime Contractors who are ultimately held accountable for this delivery, there is no reason why this should be a problem—many providers would, if directly asked in these terms, probably prefer to be contract managed by an independent company than by the State. On the other hand there is a danger that such “distance” from the front-line can mean that DWP begins to lose first-hand experience of delivery of their own provision in some cases. Certainly some subcontractors—particularly those who do not also hold Prime Contracts—have expressed fears at being left at the behest of, and commercially exposed to, their direct competitors with little apparent recourse to dispute mediation.

17. This therefore brings into play the issue of the effectiveness of the Code of Conduct which governs relationships between subcontractors and PCs (and for that matter between DWP and the market as a whole). DWP’s proposed “stewardship” of the supply chain, rather than any active intervention in it on their part, still gives cause for concern to some providers who fear the repercussions of a market dominated by a few very large PCs. As contract management of the supply chain will be carried out by the PCs themselves, this “distance” from DWP could, it is feared, lead to inaccurate perceptions of subcontractor abilities when it comes to recontracting, putting them at a commercial disadvantage.

18. For example, there have been concerns expressed at the possible absorption of innovative subcontractor delivery ideas into overall PC provision, eroding any commercial advantage that the subcontractor may have held. This may mean that some innovations do not get implemented fully for commercial reasons, which of course would be to the detriment of the customer.

19. In general terms however, ALP feels that whilst such fears should not be overlooked or discounted, the fact that so many Prime Contractors also act as subcontractors in other contract areas in itself provides a form of check and balance to the system. Particularly in the early stages of FND, we feel that DWP would be wise to stay relatively close to the supply chain, in order to give reassurance and stability more than anything else, with a view to pulling away (should they wish to do so) as the provision becomes more embedded and familiar to those in the training infrastructure. It is important therefore that the Code of Conduct is seen to be reasonable to all parties, and crucially to be enforceable—to “have teeth”. CEP is a vital part of the company’s economic management tools and changes to it should not be undertaken lightly, and we feel that a strong Code of Conduct will go a long way to stabilise the system following the changes it is now undergoing, and put to rest many of the fears currently being aired.

Will the customer charter proposed by DWP ensure that customers, Jobcentre Plus and contractors know what they can expect of employment programmes?

— The Customer Charter helpfully brings together and restates fundamental good practice in an accessible and clear form. That said, the Code of Conduct, albeit indirectly, will probably be more important in terms of a positive effect on the customer experience as by providing business security it will free resource for front line services.

20. There is nothing inherently wrong with the Customer Charter, which sets out some clear basic rights and responsibilities. It is clear, simple and easy to understand, and the principles it espouses are applicable to DWP, JCP and its contractor base. Any customer will be able to clearly understand the basics about what they can expect from DWP (and its associates) and also what is expected of them.
21. However posters on a wall do not of themselves facilitate positive behaviours. The output is the real objective here—to ensure that all concerned know what is expected and from whom. One respondent noted that “we should make it obvious from what we do what the Charter is, rather than having to have it up on the wall to spell it out.” This means that staff themselves should be clear at the outset of dealing with a customer what any part of a process entails and what is expected of whom, and that organisational administration and paperwork also make this clear at every stage. There is of course nothing wrong with having these basic principles restated in a visual form in an accessible location, but no-one should get too fixated on the production of a statement as opposed to actually making something beneficial happen.

22. Indirectly, it is once again probably the Code of Conduct that will ultimately be the best enabler of how well or otherwise programmes are delivered. If the contracting relationship between DWP, its PCs and their subcontractors is sound, secure, fair and stable then this enables providers to better concentrate on all aspects of delivery, and the customer experience is therefore better. Therefore although the Charter is not in itself a bad thing, in effectiveness terms it is more important to get the Code of Conduct right—ie the relationship between the contracting parties—and to give it “teeth” to ensure it is taken seriously.

Will contract management in the prime contractor model be transparent and effective in monitoring quality throughout the supply chain, and in maintaining a role for sub—contractors?

Does DWP’s contract management approach ensure the quality of service received by customers is commensurate with the level required under the contract terms?

— Whilst there are concerns about the system that must not be overlooked or discounted, we are reasonably confident at this stage that the format of FND, and the way it has been procured, will over time mean that the worst of these can be remedied or found to be baseless.

— The Committee may like to consider the implications on delivery of having a supply chain whose terms and conditions of business are not visible to DWP via its contract management procedures.

— ALP would like to see a single, professional Procurement Agency operating on behalf of a range of Government departments, and we would suggest that ultimately any Financial Audit Management activities should fall within the remit of such an agency.

— ALP is supportive of the PRaP system which we believe on balance, and subject to its proper implementation and use, will be of immense benefit to not only providers but ultimately customers as well.

23. As outlined earlier, there are some fears amongst the provider base—particularly amongst those who are operating as subcontractors only and do not hold prime contracts—as to whether the contract management approached opined up to now by DWP will either reinforce the supply chain or ensure the quality of the customer experience.

24. Whilst DWP’s contract management of its PCs looks workable, the question that consistently arises is exactly how visible will subcontractors—and therefore the largest part of actual delivery—be to DWP? How will they be able to judge whether relationships with sub-contractors are working to their full potential, and whether they are of the nature that was initially agreed in the tender that was accepted and which of course formed the basis of the contract? Certainly there have been such issues under the existing New Deal arrangements, and with the enlargement of both contract sizes and areas under the FND, many providers are concerned that these will recur from October but on a larger scale.

25. The result of such fears could be a stifling of innovation, which would be a great pity, as FND gives providers for the first time the freedom to innovate like never before. If this freedom is not fully exploited because of structural fears about the functioning of the system then this would be a great opportunity lost.

26. There is also the fact that the vast majority of supply chain contract management will be, naturally enough, the responsibility of the PC. There is no particular reason to doubt that the individual systems of contract management in each contract area will be effective, but for subcontractors delivering to more than one PC there potentially could be difficulties in accommodating differing systems.

27. We are however drawn to the fact that the overall infrastructure involved in delivering FND (in this instance) is a mixed bag of providers who are by turns Prime Contractors, subcontractors, or often both. Therefore all concerned are going to be subject to much the same range of pressures and difficulties, which we feel actually gives a hidden strength to the supply chain by providing an inbuilt balance. Although there are fears that a very few companies could become totally predominant, in actual fact if this happens it will be because they have found ways to economically and efficiently handle the conflicting demands that the system presents. Over time the worst of these pressures will be highlighted and addressed because the relationship between the contracting parties—and to give it “teeth” to ensure it is taken seriously.

28. Therefore, ALP feels that whilst there are indeed some weaknesses and concerns in the system that must not be overlooked or discounted, we are reasonably confident at this stage that the format of FND, and the way it has been procured, will over time mean that the worst of these can be remedied or found to be baseless. As far as future CEP goes, it would be wise for FN Phase 2 to continue to ensure that the
infrastructure is comprised of companies with permutations of PC and subcontractor contracts and be alert to growth purely on the back of only one type of contract, which may allow many fears to gain traction again with concomitant undesirable effects on performance.

29. The recent announcement of reductions in the projection of referrals to the Flexible New Deal Phase 1 areas of up to 40% also highlighted an interesting development in the supply chain which may be worthy of the Committee’s attention. One FND prime contractor, with commendable honesty and transparency, decided to share the letter they had received from DWP in its entirety with their subcontractors in order to keep them fully informed of developments. However they also inadvertently thereby informed them that whilst the PC’s contract with DWP had a tolerance level of 40% either way built into the projected volumes for payment, they had only passed on a 15% tolerance to their subcontractors. Some of the subcontractor base therefore felt they had been somewhat misled by the PC.

30. The details of why this is important—and potentially disadvantageous—to the subcontractor are technical, and would require reasonably lengthy explanation to unpack, none of which would ultimately help to illustrate the overall strategic point which is more pertinent to this submission. Suffice to say that subcontractors feared that as a result of these arrangements there was a possibility that their PC would not be technically required to pass on the payments they had received from DWP for work actually undertaken by the subcontractor. Some have pointed out that as the DWP Code of Conduct states that “Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks”, they believe that the PC is therefore working in contravention of this clause. This has bred mistrust of the PC’s motives and doubts as to exactly how involved in FND some subcontractors want to be.

31. The overarching point that this particular situation illustrates is that it is doubtful whether these arrangements would have come to the notice of DWP, and therefore been flagged up as a potential risk to front-line delivery, without a well-intentioned but inadvertent slip on the part of one of their Primes—certainly subcontractors we have spoken to do not believe that DWP’s contract management structure would have identified it as things currently stand.51 A further concern is that even if it had identified it, there seems to currently be no third party mechanism in place to actually resolve the issue. Considering the amount of front-line delivery that the subcontractor base is responsible for, the fact that some believe they have been misled into accepting a disproportionate amount of risk should be of concern; and yet the Code of Conduct looks a little toothless as a means of redress.

32. The fact that the contract management structure would probably not pick issues like this one up is of concern to some, and illustrates the distance between DWP and its supply chain. The central question here is therefore whether DWP ought to be more heavily involved in overseeing or in some way mediating in such arrangements.

33. The overriding argument used to distance DWP from such intervention is that PC/subcontractor terms are a purely commercial agreement between two independent companies, and that DWP’s concern is purely about whether or not the PC delivers on its contracted promises. However, the issue does have echoes of long-running disputes between independent providers and some Colleges of Further Education who, when franchising courses, passed on disproportionate and disadvantageous terms of delivery to the subcontractors. Whilst this did have the effect of reducing unit costs to the College and thereby increasing surpluses, it is not at all clear how much benefit accrued to the State, and indeed many good providers withdrew from, or never entered, the franchise market because of the reputation of such agreements.

34. Whilst occasional instances of such problems still arise from time to time, it is now nowhere near the level it once was, and delivery of skills programmes have benefited as a result. It would be regrettable to see such problems being inadvertently introduced into the DWP supply chain, where the importance of subcontractor delivery is absolutely central to the delivery strategy, when experience so clearly warns against it. The Committee therefore may like to consider the implications on delivery of having a supply chain whose terms and conditions of business are not visible to DWP via its contract management procedures.

35. The recent movement of Financial Audit Management (FAM) responsibilities into DWP does however look encouraging, with its proclaimed intent to move away from a “tick box” approach to auditing with a more refined systemic analysis approach. The move to have a fixed team allotted to each provider, as opposed to organising on a regional basis, is also to be welcomed as it will give a closer understanding of the contractor base, its structure and its operation. Of course, the ultimate success of such a move will depend on the expertise of the DWP staff concerned with each provider but DWP do appear to be investing suitable time and resources to ensure these are of a suitable standard. That said, the ALP policy is to move to having a single, professional Procurement Agency operating on behalf of a range of Government departments, and we would suggest that ultimately any FAM activities should fall within the remit of such an agency.

36. The development of the Provider Referrals and Payment (PRaP) system is also widely welcomed in the provider community as being long overdue. However there is some concern that a lot is being expected of it in a short time, especially given the size and complexity of contracts about to be introduced into the system that it will be expected to handle. Some subcontractors are also unhappy that they will have no access to this program, but will instead have to depend on the PC’s own systems in order to administer referrals and payments. This may well mean that although the evidential collection burden on PCs is reduced, this

51 That said, work is underway via the Merlin proposals to build a robust contract management structure which may look more closely at commercial arrangements with subcontractors.
may not in some cases fully pass down to the wider provider base. This is an important point on several
levels as regards the customer experience, as unnecessary administrative burdens and costs will divert
resources away from front-line delivery. We are however supportive of the PRaP system which we believe
on balance, and subject to its proper implementation and use, will be of immense benefit to not only
providers but ultimately customers as well.

October 2009

Memorandum submitted by ERSA (EP 13)

1. ERSA welcomes this Work and Pensions Select Committee Inquiry and advises the Committee that:

(a) The management and administration of contracted employment programmes is not failing to
safeguard against risks of fraud or insufficient public accountability for public spending;

(b) Providers are realistic enough to accept that it will be impossible to give a 100% guarantee that
there will never be any fraudulent claims for job outcomes. Yet they are far from complacent;

(c) The levels of fraudulent claims are low and, equally importantly, the systems in place identify and
address those isolated instances of individual or localised fraudulent behaviour;

(d) Fraud on any level is intolerable, but the reaction needs to be proportionate. The process needs to
help minimise other risks: genuine error; and obstacles to claiming for valid outcomes. The
challenge of retaining balance is illustrated by comparing the handling of two recent situations:

(i) A once-only “off-benefit check”, to pay Pathways providers for hundreds of “backlog” job
outcomes they had achieved but could not prove through lack of paper evidence, resulted in
DWP paying out many hundred thousand pounds to providers. This occurred “under the
radar” and there are no plans to repeat it;

(ii) The recently reported fraudulent claims (where the sum repaid by providers was considerably
less than the sum paid by DWP for previously unclaimable Pathways outcomes) provided no
evidence of systematic fraud, though the story attracted sustained press attention and triggered
various policy responses;

(e) The main weaknesses of systems to prove job outcomes have been: costs (around 10% of contract
value); difficulty in gathering the evidence; and burdensome requirements alongside negative
signals for employers. The move to off-benefit checks should result in a scaling back of the
collection of paper evidence;

(f) The ground rules and processes for contract management and administration need to improve and
modernise, to drive better performance for customers and the taxpayer and to become more closely
aligned with welfare reform and the Commissioning Strategy;

(g) Improvements are already underway, supported not least by joint working over the past year by
ERSA, DWP and Jobcentre Plus. Our joint initiative on “creating the conditions for high
performance” has identified process changes which would enable providers to achieve higher
performance without exposing DWP or providers to unacceptable risk. The DWP/ERSA
Pathways Working Group has streamlined processes to improve efficiency and customer care;

(h) ERSA encourages the Select Committee to use this Inquiry to fuel the momentum of continuous
improvement, by taking a “forward looking” approach in its findings and recommendations;

(i) ERSA proposes guiding principles for contract management and administration: promote
teamwork; avoid stifling innovation; weigh up the costs and benefits of processes; avoid confusing
policy with process; and hold providers accountable for achievable targets. These guiding
principles aim to drive good behaviours by DWP, Jobcentre Plus and providers;

(j) Changes to DWP’s Financial Appraisal and Monitoring (FAM) are a good step forward, by
aiming to add value, develop alternative risk management techniques and strengthen partnership;

(k) Gathering and analysing management information consumes considerable DWP and provider
resource. There is a need to cut process costs and make the data more useful in answering strategic
questions, such as the economic and social return from programmes;

(l) Stronger and more flexible teamwork between DWP, Jobcentre Plus and providers is key to
improving performance. New ways of working and a rebalancing of the roles of DWP and
Jobcentre Plus have started to recognise this, but a sustained culture change is needed;

(m) ERSA is working with DWP and Jobcentre Plus to draw up a statement of customer care for
contracted employment programmes. This will fit below the DWP Customer Charter, setting out
a common customer care ethos, without stifling individual providers’ ability to innovate;
ERSA urges the Committee to use its Inquiry to help drive continuous improvement

2. ERSA (Employment Related Services Association, representing independent providers of welfare-to-work services) welcomes this Work and Pensions Select Committee Inquiry. The Inquiry has the potential to help support and fuel a drive, which is already underway, to improve the management and administration of contracted employment programmes, by taking a “forward looking” approach to drawing up findings and recommendations.

3. ERSA members span the public, private and voluntary sectors and range from small local or specialist providers to national or multi-national organisations. Our evidence has been produced through consultation across this provider base. It also draws on our joint work with DWP and Jobcentre Plus over the past year, notably:

(a) Our “creating the conditions for high performance” initiative to identify process changes which would enable providers to achieve higher performance without exposing DWP or providers to unacceptable risk. This work was set up by the ERSA/DWP Overview Group, a senior level forum bringing ERSA together with DWP officials responsible for policy, delivery and commercial issues;

(b) The DWP/ERSA working group on Pathways, which has identified measures to raise the performance of Pathways contracts;

(c) Dialogue to update and modernise DWP’s standard contractual terms for welfare-to-work contracting, to bring them into line with the Commissioning Strategy and promote partnering;

(d) Ongoing discussions to promote more flexible and stronger teamwork between DWP, Jobcentre Plus and providers, to improve customer care and the management of customer journeys.

4. ERSA would emphasise a point that the Work and Pensions Committee has rightly acknowledged in other work: that we are in the early stages of an ambitious welfare reform journey. ERSA supports the Commissioning Strategy and our members who also work for other parts of Government are particularly aware that the DWP’s strategy is leading-edge. We should expect continuous evolution and improvement in the administration and management of contracted employment programmes, to support welfare reform and fulfil the intentions of the Commissioning Strategy. Indeed, ERSA is committed to help fuel the momentum of this evolution.

Promoting outcome-focused commissioning, value for money, risk management and accountability

5. The ground rules for the management and administration of contracted employment programmes need to drive good behaviours by all parties and support fundamental objectives, namely outcome-focused commissioning, value for money, risk management and accountability. To date, contracted employment programmes have been characterised by detailed processes, which have sometimes inadvertently acted against these fundamental objectives. The Commissioning Strategy creates the requirement and the opportunity to take a fresh approach. We encourage the Committee to use this Inquiry to make the case for adapting management and administration techniques and to support a culture change which has begun but needs to become embedded.

6. ERSA suggests guiding principles which would help to ensure that processes for contract management and administration serve their intended purpose:

(a) Promote teamwork: consistently we find that the key to improving outcomes and customer care in contracted employment programmes lies in strengthening the teamwork between DWP, Jobcentre Plus and providers. Contract management must promote a “one team” approach and avoid reinforcing any “them and us” mindset. For example:

(i) Legitimate data security concerns should not thwart sensible sharing of customer data, so that Jobcentre Plus and providers can share knowledge about customers’ needs and avoid asking customers to provide the same information repeatedly;

(b) Avoid stifling innovation: the Commissioning Strategy usefully promotes “black box” specifications, where DWP outlines key requirements and invites bidders to put forward their own solutions. DWP needs to avoid “writing out” the scope for innovation through prescriptive ground rules. In return, providers individually and collectively need to give DWP and other stakeholders the confidence that their solutions will fulfil policy goals. This can be achieved through alternative mechanisms. For example:

(i) The ERSA/JCP statement on customer care in contracted employment programme, currently being developed, will set common expectations about what customers can expect and how they can make the most of support. It will establish a common customer care or public service ethos, without stifling each provider’s innovation and organisational culture;
(c) Weigh up the costs and benefits of process ground rules: effective contract management processes add value for DWP and providers, for example by improving efficiency or relationships. Conversely, some “tick box” processes can inadvertently add financial or other costs, drawing resources away from the front line, without any meaningful risk reduction. Processes therefore need to be designed carefully, against a balanced assessment of risk and value for money.

(d) Avoid confusing process with policy: guarding the distinction between policy and process is key to creating a climate where both can evolve. The processes first designed to implement a policy can inadvertently be given the status of policy itself and become difficult to challenge for fear of undermining the policy or strategic intent. The joint DWP/ERSA work on Pathways is instructive for having addressed this point, e.g:

(i) We demonstrated how introducing group-based activities could complement one-to-one discussions to ensure that Work Focused Interviews preserved the policy of personal customer contact while also addressing customers’ barriers of isolation more effectively;

(e) Hold providers accountable for achievable performance targets: where contracting processes drive providers to over-promise on price and performance, they will have risked creating the typical consequences of inappropriate targets, such as skewed priorities and delivery techniques, but also isolated instances of individuals fabricating results so that they hit or come closer to the targets. For all these reasons, welfare-to-work commissioners must now create a competitive framework where providers can be fully confident that the winning bid will be a realistic one, both in terms of targets and price.

DEMONSTRABLE ACCOUNTABILITY FOR CONTRACTUAL SPENDING AND SAFEGUARDS AGAINST FRAUD

7. ERSA supports the fundamental principle that there must be safeguards against fraud and demonstrable accountability for public spending, simply to show that public money is being spent as intended. Providers’ own systems and DWP’s contract management and administration procedures have long been designed around this principle. These systems include: providers’ internal audit and whistle blowing policies; tight rules on what constitutes valid job outcome evidence; DWP’s Financial Appraisal and Monitoring (FAM) function; and DWP’s arrangements for coming into to review and scrutinise providers.

8. Providers are realistic enough to accept that it will be impossible to give a 100% guarantee that there will never be any fraudulent claims for job outcomes. However, they are far from complacent. The levels of fraudulent claims are low and, equally importantly, the systems in place identify and address those isolated instances of individual or localised fraudulent behaviour.

9. As DWP said at the time, the cases of fraudulent claims that attracted media attention recently had been identified by providers and DWP much earlier and were being addressed:

(a) DWP spokeswoman, Observer, 28 June 2009: “Specialist employment organisations help 200,000 people back to work every year. Unfortunately our audit processes have uncovered some specific cases of fraud involving particular individuals who have since been sacked and money paid back. Our investigations found no evidence of systematic abuse.”

10. A4e’s statement in response to its case was typical of the reaction of ERSA members to any case of fraud:

(a) A4e: “All the matters raised in the article are known to both A4e and the DWP and have been the subject of both an A4e investigation and a DWP led investigation. These investigations have resulted in the departure of both individuals from the company and the ceasing of all activity with the employment agency concerned. It is disappointing that the actions of two individuals in one office have diverted attention away from the achievements of the thousands of colleagues in A4e who are passionate about supporting long term unemployed people back into work.”

11. ERSA would not see the cases recently reported in the press as grounds for judging that the current safeguards have failed. However, fraud on any level is intolerable: these cases are a salient reminder of why safeguards are necessary and serve as a prompt to learn lessons and build these into continuous improvement.

12. We would urge Parliament and DWP to guard against responding to these cases with measures that, in practice, have little impact in further eliminating fraud but create significant extra cost and other downsides for effective delivery. Rather, we would recommend process improvements that would achieve “more for less”, by improving efficiency, creating better conditions for performance and managing the risk of fraud more effectively. The answer lies in using techniques that drive good behaviour, eg a partnering approach that that generates robust challenge and support between the parties and targets that are challenging yet achievable.
13. To date, the main weakness of systems to prove job outcomes has not been that fraudulent claims were being paid. Rather, the problems have revolved around:

(a) The cost of collecting and submitting the evidence, with this activity accounting for 10% of providers’ costs and also using significant DWP resource. The process has also created delays in providers being paid;

(b) The significant volume of job outcomes genuinely achieved but unpaid. Causes have included:

(i) Restrictions on valid evidence, which have made it impractical to prove job outcomes, eg the employer representative who signed the first document may not be available to sign the second one and the signatures must match; some businesses, such as a fish and chip shop, may not always have print material such as headed note paper to hand;

(ii) A six week tracking period (within which providers can claim job outcomes once a customer leaves provision) being tight when recruitment processes take time, eg in the public sector;

(c) Unhelpful requirements and damaging signals for employers. For example:

(i) Employers are currently reluctant to make a public commitment that a job will last for 13 weeks, because they are worried about redundancy risks across their businesses;

(ii) Temporary jobs, which could be the ideal next step for some customers given current labour market conditions, are undervalued through a legitimate policy goal of sustainable employment;

(iii) The “signing rules” for employer evidence can inadvertently imply a lack of trust in employers who are in reality strong partners with Jobcentre Plus and providers in helping those furthest from the labour market to find and keep work.

14. ERSA has been working with DWP over the past year with the aim of addressing these types of “downsides”, without increasing risks to DWP or providers. Progress has included:

(a) An extension in the tracking period to 13 weeks for some programmes;

(b) More clarity on what constitutes valid evidence, to: help providers seek the right proof; make it easier for all types of business to prove they had employed someone; and help reduce inconsistency between the approaches of different DWP FAM teams in evaluating evidence;

(c) Support for Pathways contracts, eg speeding up outcome payments and a one-off “off-benefit” check to pay providers for around 800 job outcomes achieved previously, for which the paper evidence had proved impractical to collect. That resulted in DWP paying providers around £800,000 for “backlog” outcomes.

15. These types of improvements have been welcome and demonstrate the potential for increasing efficiency and effectiveness without risking reduced accountability or increased fraud. However, overall, the process for proving job outcomes remains costly in financial and non-financial terms.

16. ERSA welcomed the Government’s commitment to introducing “off-benefit” checks as the central technique for validating job outcomes. However, it is now clear that, while “off-benefit” checks will be used to validate invoices, providers will still need to collate the paper evidence as before to meet FAM requirements, representing a continuation of the heavy administrative burden and cost to providers and DWP.

17. ERSA encourages the Work and Pensions Committee to recommend:

(a) A clear policy of using “off-benefit” checks wherever they can technically prove job outcomes;

(b) Continued joint work by DWP and ERSA to review the value of the other types of evidence still required to sit alongside “off benefit” checks;

(c) Further review of the evidence ground rules and processes for those scenarios where “off-benefit” checks will not work technically;

(d) The aims of further gains in efficiency and effectiveness alongside better risk management.

18. ERSA welcomes the conclusions of DWP’s review of the Financial Appraisal and Monitoring (FAM) function that provides assurances to DWP’s Accounting Officer about contracted employment programmes. Key actions being put in place from 1 October include:

(a) Operating to consistent standards at a national level, so that providers have a single point of contact and a clear understanding of the criteria against which they will be assessed, thus allowing DWP to focus on ensuring that providers’ systems are effective.

(b) Focusing more strategically on value for money in contracted employment programmes, as opposed to the previous remit which focused more on validation of payment.
(c) Moving line management from Jobcentre Plus Finance to DWP’s Delivery Directorate, to connect the FAM function more directly into contract management.

(d) Regrating of the posts within the FAM function to recognise the change in scope and the technical expertise and level of judgement now needed in the decision making process. All personnel working in the new function will either have or be working towards the Institute of Internal Audit’s Certificate in Internal Auditing qualification.

19. These changes create the potential for the FAM function to add more value and to develop alternative risk management techniques, which would give DWP the confidence to streamline the current processes which are costly. In particular, it paves the way for DWP to gain a more effective insight into providers’ policies, systems and techniques and to build stronger partnerships with providers, through which they can offer more robust challenge and support. ERSA encourages the Work and Pensions Committee to welcome this development and to encourage DWP and providers to harness its potential.

MANAGEMENT INFORMATION, INSPECTION AND SCRUTINY

20. A considerable level of DWP and provider resource goes into gathering and analysing management information and scrutinising performance, at local, regional and national levels, in terms of: progress of customers; uptake and delivery of provision; contractual performance (including financial monitoring and external quality inspection); and outcomes achieved.

21. The range of activities is extensive, including: FAM; the performance data “returns” that contractors submit throughout contract delivery; Quality Framework and Ofsted/Estyn inspections; Star Ratings; and provider accreditation.

22. All this detailed work demonstrates the attention that is given to measuring the performance of contracted employment programmes. The various tools have developed and evolved over time. The recent review of FAM is a good example of a tool being “modernised”; yet in overall terms the toolbox needs rationalising and the tools need sharpening.

23. In essence, there is a need to improve the efficiency and effectiveness of management information, to reduce the cost of collection and analysis and also to make the data easier to interrogate and more useful in answering strategic questions, such as:

(a) The value for money obtained, calculated on an “economic and social return on investment” basis;

(b) Comparative performance of different programmes and providers and also comparative performance over time;

(c) Capability of the provider base;

(d) Outcomes achieved over the long term including the distance travelled by those furthest from the labour market.

24. ERSA is keen to work with DWP and others to ensure that management information tools are fit for purpose in the context of the Commissioning Strategy and welfare reform agenda. ERSA members can offer insights from delivering contracts for other parts of Government, such as learning and skills where common data sets are more established. Moreover, many ERSA members have developed their own good practice, eg to track customer outcomes and demonstrate the economic and social return on investment from their provision.

CONTRACT MANAGEMENT

25. To date, detailed ground rules have governed how providers should deliver contracted employment programmes and report on their performance. The Provider Guidance documentation (available on the DWP’s website) illustrates this clearly. The Commissioning Strategy commits to moving to a “black box” approach, giving providers more freedom to design customer journeys. Yet it is clear that a considerable degree of detailed prescription will continue. The provider guidance for Flexible New Deal remains a weighty tome, though there has been an effort to scale back the text.

26. There is a growing recognition that effective contract management is about much more than administrative processes to collate and review data. The strength and depth of partnership working between DWP, Jobcentre Plus and providers is key. The trust that lies at the heart of successful partnerships promotes flexible ways of working, unlocks innovation, supports objective assessments of performance and fuels continuous improvement. Such trust also gives all parties the confidence to expose risks and problems early on, so that they can be managed and solved.

27. Contract management is evolving to strengthen partnership working. In particular:

(a) The “New Ways of Working” initiative is enabling and encouraging Jobcentre Plus to work more flexibly across all its activities, including through building more flexible teamwork with providers. Instances of good practice include:

(i) Jobcentre Plus delivering services from providers’ premises (and, to a lesser extent, vice versa), while in the past there was a prevailing impression that this was not permitted;
(ii) Jobcentre Plus and providers teaming up to improve customer journeys, particularly to improve referrals. Customer care is improved through Jobcentre Plus introducing the customer to their new provider, instead of saying “a provider will contact you”;

(b) Provider Engagement Meetings have been introduced, whereby Jobcentre Plus meet with providers individually or collectively to discuss the issues most affecting performance. The agenda can range from external factors such as the local labour market, through issues of teamwork between JCP, providers and other agencies to internal issues for providers. These sessions are outside the contract management regime run by DWP but are intended to help JCP and providers together to manage down risks and grasp opportunities to improve performance;

(c) DWP is strengthening the emphasis it places on supplier relationship management in its approach to contract management and has also been restructuring its management of the delivery of contract employment programmes, to break down silos and address fragmentation;

(d) Ongoing work between DWP, JCP and ERSA regularly throws up lessons about how DWP, JCP and providers each create conditions that affect how the other parties can perform. This interplay has not always been well understood, but we are now learning more about how best to pull together for the customer and taxpayer.

28. All these developments are at an early stage and:

(a) DWP, JCP and providers are still building the techniques to put the principles into practice;

(b) Although the culture change has begun, a sustained drive from all those in leadership positions is needed to embed the new approaches throughout DWP, Jobcentre Plus and the provider base.

29. ERSA encourages the Work and Pensions Committee to use its report to help raise the momentum of these initiatives to stimulate: culture change; stronger partnership working on the ground; and a clearer sense in the design of contract management arrangements of what makes for the optimum teamwork between DWP, Jobcentre Plus and providers.

30. The move to outcome-focused commissioning must also frame the further evolution of contract management. Public procurement and contract management techniques, developed and embedded over the past 10–15 years, have been designed for procuring outputs. As a nation, we are at the early stages of a new era of commissioning for outcomes; and welfare-to-work commissioning is at the leading edge of this development.

31. The techniques for output-based procurement revolve around:

(a) Optimum risk transfer, ie assigning each risk to the party best able to manage it, to achieve the optimum risk allocation;

(b) Increasing certainty and predictability of the result (eg on-time and on-budget);

(c) A contractor/client split, reflecting the client’s strategic “outsourcing” of the activity.

32. By contrast, outcome-focused commissioning of welfare-to-work services needs to achieve:

(a) The best possible joint management of risk, because so many outcome-focused risks, eg customer needs, labour market conditions or the economic climate, are outside either party’s individual control or at least can be best managed jointly;

(b) Flexibility to enable change and uncertainty to be managed as effectively as possible;

(c) A one-team approach, whereby DWP and Jobcentre Plus see themselves as “bringing in” providers to be part of their delivery network, because that is the only sensible basis for managing down risks and grasping opportunities.

33. Hence, there is a need over time for a radical redesign of established contract management techniques. The evolution is likely to take a decade for the principles to “sink in”, the techniques to be developed and good practice to spread.

34. We encourage the Work and Pensions Committee to acknowledge the need for this evolution and to help create the climate where it can take place, for example by: promoting a “can do” attitude; committing to learning the lessons constructively about what is working well and what needs to change; and by framing its detailed proposals in a “forward looking” way that supports the required direction of travel.

35. One specific issue where more effective ground rules are needed is the handling of staff transfers. To date, DWP’s focus has been on offering limited advice to providers on the application of TUPE (Transfer of Undertakings: Protection of Employment regulations) and ensuring that the department does not “overstep the mark” in terms of interpreting this piece of employment law.

36. Good handling of staff transfers in public procurement does not simply require compliance with employment law, ie TUPE legislation; it also requires the public sector to adopt procurement policies and procedures that support employees through the process, promote fair competition, manage down risk and ease the tendering process. ERSA is keen to work with DWP to develop the appropriate ground rules in the context of welfare-to-work commissioning.
37. ERSA welcomes the recently published DWP Customer Charter, setting out mutual expectations between DWP and its customers. It is useful to have this generic document that applies to all DWP’s activity, including benefits, welfare-to-work support and pensions. The research into customer priorities and attitudes has been informative. Jobcentre Plus is also leading useful work on standards of customer care for its operations.

38. ERSA has taken the lead to initiate work to produce a statement of customer care for contracted employment programmes, working in partnership with DWP and Jobcentre Plus.

39. The statement will give confidence to customers and other key stakeholders, notably Ministers and Parliament about the core customer care ethos at the heart of independent provision of welfare to work services, without stifling the ability of individual providers to innovate and differentiate their offering.

40. We are designing the statement to fit beneath the main DWP Charter, covering consistent issues (right treatment; right result; on time; easy access). We are interpreting these generic pledges in the context of contracted employment programmes. As with the DWP-wide Charter, this would set out the mutual expectations on customers and providers to convey, for example, that providers will develop a personalised service for customers and will need customers to help by openly sharing their needs and aspirations. We will be discussing the aims and content of this statement at the ERSA Annual Conference on 20 October.

41. The successful implementation of the Commissioning Strategy depends heavily on effective supply chain partnerships, where prime contractors, mainstream providers (eg aspirant primes) and smaller local or specialist providers can all play to their strengths and deliver a joined up service for the customer and taxpayer.

42. The prime contractor model continues to develop, with primes contractors and sub-contractors as well as DWP and Jobcentre Plus gaining experience and expertise.

43. ERSA welcomed the Code of Conduct and indeed was part of the driving force to establish it. ERSA agrees that work is needed now to ensure adherence to the code and to develop best practice. But the envisaged solution—the “Merlin Standard” on adherence to the Code of Conduct—must not be a “badge of honour” for providers, which adds more cost and bureaucracy, creates confusion given other inspection tools (eg Ofsted, Star Ratings) and fails to drive good behaviours.

44. ERSA has recommended that the Merlin Standard initiative must not start with the practicality of designing any accreditation process, but rather by reaching a clearer understanding of what successful supply chain relationships look like and how to secure them. This initial phase should focus on:

(a) Reaching a better shared understanding by DWP, Jobcentre Plus, prime contractors and subcontractors what drives good behaviours from all parties;

(b) Ensuring that every phase of commissioning any programme (establishing the business case and budget for the programme, determining the specification, selecting bidders, finalising contract terms, awarding the contracts and managing them through delivery) must be designed so as to drive good supply chain relationships.

45. In particular, we emphasise that the pivotal role of DWP and Jobcentre Plus because their handling of every stage of the commissioning cycle and the terms of their engagement with prime contractors overwhelmingly determine the ability of prime contractors and sub-contractors to work together as envisaged under the Code. For example:

(a) Delays in DWP awarding contracts to their prime contractors then intensify the time pressures on primes and subcontractors to finalise their contracts

(b) Where volume risks are high, ie referral numbers are particular uncertain, and DWP largely transfers this risk to providers, it can be a challenge for prime contractors to manage that risk and an even greater challenge for subcontractors

(c) The joint work by DWP and ERSA to improve the processes for delivering Pathways to Work, eg to improve the referral process, promote flexible teamwork between Jobcentre Plus and providers and speed up payment once job outcomes have been achieved, has started to bear fruit. With the benefit of hindsight, if we had begun this earlier, we may well have helped to protect subcontracting relationships that broke down when the conditions for delivering Pathways were less conducive to achieving job outcomes and safeguarding commercial sustainability.

46. Given the driving influence of DWP and Jobcentre Plus, ERSA has recommended that the Merlin Standard must test or evaluate DWP and Jobcentre Plus just as much as it tests or evaluates prime contractors and subcontractors.

October 2009
Memorandum submitted by The Department for Work and Pensions (DWP) (EP 14)

SUMMARY

— This memorandum is provided by the Department for Work and Pensions (DWP or “the Department”) as a contribution to the Work and Pensions Select Committee’s inquiry into the management and administration of contracted employment programmes.

— DWP spends around £1 billion a year on Contracted Employment Programmes. The Department manages the performance of providers and their contracts to ensure that public money is safeguarded and payments are only made for legitimate outcomes. Allegations of fraud or wrongdoing by providers are always investigated.

— The Department is undertaking a major programme of work to strengthen its approach to performance management and provider assurance. Against a backdrop of significant rises in the number of people using Contracted Employment Programmes, enhanced measures, processes and systems are being introduced into all Contracted Employment Programme contracts over time through a revised contractual model, starting with Flexible New Deal in October 2009.

— The Department is re-organising its contract management as part of a wider review of the way DWP commissions, sources, awards and monitors contracts. Its Commissioning Strategy, published in February 2008 sets out the Department’s ambition to develop more strategic relationships with providers and to operate fewer, larger and longer contracts.

— In September 2009 there were 374 providers running 849 contracts. This was down from 438 providers running 1,153 contracts in March 2009 and 2,058 contracts in January 2007.

1. INTRODUCTION

1.1 DWP spends around £1 billion a year on Contracted Employment Programmes (CEPs). Ensuring that this money is being spent effectively and appropriately to reduce costs and achieve value for money is at the heart of DWP’s strategy for managing its providers and assuring payments made to them.

1.2 The Department has always insisted on the highest standards of probity in relation to claims and payments for providers’ activities and always investigates any allegation of fraud and wrongdoing.

1.3 The Department is engaged in a major programme of change across all aspects of the CEP system which has required a strengthening of its approach to performance management and provider assurance.

1.4 In 2007 the Department centralised the management and development of CEPs which had previously been operated as an adjunct to Jobcentre Plus’ local activities. This structural move was made to create the conditions to drive through a more strategic and integrated approach to commissioning contracted employment provision.

1.5 DWP published its Commissioning Strategy in February 2008. It sets out how DWP plans to develop more strategic relationships with providers. As a result of this rationalisation and strengthening of the system DWP has streamlined the number of contracts it has, and the number of providers the Department contracts with at the top tier level. The Department is shifting from paying for inputs and process steps to paying for outcomes wherever appropriate, to achieve a step change in performance and quality.

1.6 DWP’s system for managing the performance of providers and their contracts to ensure that public money is safeguarded and payments are only made for legitimate outcomes has the following key features:

— Contracting, to set performance targets and establish the framework of requirements on providers;

— Controls and assurance, to check that providers are accurately recording and claiming for legitimate outcomes and that payments are being made accurately, and to assess the continued operation of controls;

— Contract management; to keep providers to the highest standards of performance, quality and compliance, and to secure improvements where shortfalls are identified; and

— Investigation of alleged or identified irregularities, in which the Department’s Risk Assurance Division is a key player.

1.7 DWP is strengthening its fraud prevention measures and its controls against fraud and error. This enhanced approach includes embedding the four key principles that DWP is in the process of applying to all its providers delivering CEPs:

— There must be a “whistleblowers charter” in place, enabling supplier staff to report inappropriate behaviour by colleagues in respect of performance claims.

— Performance management systems within the organisation must not generate perverse incentives among individual employees to falsely claim performance achievement.

— There must be segregation of duties within the supplier’s operations between those achieving performance and those reporting it to DWP: between claim and validation.

52 Cm7330 published February 2008
— An internal audit regime must be in place which provides for periodic checks of the performance reporting regime.

1.8 DWP is currently in a transitional period as it implements its programme of change. The Department expects the changes that it is making will enhance the way it manages its contracts to prevent fraud and error, ensure the highest levels of customer service, help more people into sustained jobs and safeguard public money.

2. SAFEGUARDING AGAINST FRAUDULENT CLAIMS

2.1 The Department has robust control and assurance arrangements in place to guard against fraudulent claims being made by providers. These include processes to validate payments, the assurance regime over providers’ systems of internal control, and the wider control environment.

2.2 Over the past year the Department has reviewed its strategy for preventing fraud, and the controls it has in place to protect against fraudulent claims. This is in response to the new challenges of assuring outcomes and payments in a changing environment. Providers are delivering higher value, longer contracts with less prescription. They are under increasing pressure to deliver performance against a backdrop of significant rises in the number of people using Contracted Employment Programmes (CEPs).

2.3 DWP is in a transitional phase as it implements a programme of work to strengthen its fraud prevention measures and controls. Payment and performance policy and processes are being standardised and streamlined, more stringent fraud prevention measures are being introduced into CEP contracts, and the focus and remit of the assurance regime over providers is being broadened and strengthened.

2.4 Many of the enhanced measures will be introduced through Flexible New Deal contracts, starting in October 2009. The Department is planning to apply the strengthened measures to all its CEP contracts with a value of £3,000 or more over time.

Checking and validation of payments

2.5 Providers are required to submit claims for payment which are subject to validation by the Department. The claim form includes a declaration from the provider confirming that they are only claiming for payments to which they are entitled.

2.6 CEPs have grown up over time, each successive programme having its own model for making payments and its own definitions of performance. DWP applies the same validation principles across all its provision, but the validation measures vary according to the type of provision and the funding model used.

2.7 DWP has standardised the way it funds provision and the outcomes it pays for. The new standard funding model and outcome definitions are being applied to Flexible New Deal, and will be applied to new programmes going forward. There will however continue to be a range of different contract outcomes paid for across CEP contracts for the foreseeable future.

2.8 The principle that DWP applies to validate payments is that the evidence must support the definition of the outcome being claimed. In some cases that means that job outcomes may be evidenced by way of a check (using our IT systems) to establish if the person for whom the outcome has been claimed has stopped claiming benefit—an off-benefit check. In other cases providers are required to supply the supporting evidence, either from the employer or the individual.

2.9 If either the “off-benefit” check fails or the evidence supplied by the provider is not satisfactory then the provider is asked to provide further evidence within a specified timescale. If further evidence cannot be provided the claim will not be paid or monies will be recovered as appropriate.

2.10 The sample of outcome claims that are validated can range between 10% (where the provider supplies evidence from the employer/individual) up to 100% (where an off-benefit check is used as the supporting evidence).

2.11 The Department recognises that improvements can always be made in its methods for providing evidence for outcomes. A review of its current arrangements is planned to start in late autumn 2009.

Assurance regime

2.12 DWP has a robust system of controls and assurance in place to deter, prevent and detect fraud. These are in the process of being reviewed and strengthened as the Department responds to changes in its organisational structure and in the way it conducts business with providers.

2.13 When the Department is letting contracts it seeks assurance from providers that they have policies and procedures in place to act as a deterrent to fraud across their organisation and sub-contractors.

2.14 All CEP contracts have historically contained clauses requiring the provider to use their best endeavours to “safeguard the Authority’s funding of the Programme(s) against fraud generally and, in particular, fraud on the part of the Provider’s directors, employees or sub-contractors”. CEP contracts also require providers to safeguard their systems against misleading claims for payment, and the provider is also required to notify DWP if they have reason to suspect that any serious irregularity or fraud has occurred or is occurring.
2.15 DWP CEP contracts also contain a clause entitling the Department to terminate the contract in the event of any act of fraud committed by the provider.

2.16 DWP has been reviewing its processes to prevent CEP provider fraud and is currently introducing more stringent and specific requirements for providers to demonstrate they have robust fraud prevention measures in place.

2.17 From September 2009, all new CEP contracts, starting with Flexible New Deal Phase One, will specify that provider fraud prevention policies and procedures must satisfy the requirements of four key principles. DWP will also amend the bulk of its existing contracts to include the principles by November 2009. The principles are:

- There must be a “whistleblowers” charter in place, enabling supplier staff to report inappropriate behaviour by colleagues in respect of performance claims.
- Performance management systems within the organisation must not generate perverse incentives among individual employees to falsely claim performance achievement.
- There must be segregation of duties within the supplier’s operations between those achieving performance and those reporting it to DWP: between claim and validation.
- An internal audit regime must be in place which provides for periodic checks of the performance reporting regime.

2.18 DWP incorporated the four principles into the Flexible New Deal procurement undertaken earlier this year. Bidders were required to commit to set out their plans and systems for meeting DWP’s fraud prevention principles. Any bidders failing to meet a minimum standard when detailing their plans were eliminated from the Flexible New Deal competition. These requirements will be included in all new CEP contracts over £3,000, starting with Flexible New Deal Phase One. DWP is amending its existing CEP contracts over £50,000 to include the four key principles from November 2009.

Assurance activity

2.19 DWP is on the point of transition from old to new assurance arrangements.

2.20 Until summer 2009 financial monitoring activity was undertaken through a risk-based regime of intelligence gathering and visits to providers to review the systems of internal control in place to manage the risks to DWP in relation to CEP expenditure. This included, amongst other key risk areas, reviewing the anti-fraud measures providers have in place and validation of payments.

2.21 Based on their findings, the Financial Appraisal and Monitoring (FAM) team provided an overall view of the effectiveness of the provider’s systems. Where perceived weaknesses were identified, these have been discussed with the provider and an action plan has been agreed to ensure that appropriate steps are put in place to make improvements.

2.22 DWP has reviewed the role of FAM in recognition of the structural, organisational and strategic changes that have taken place since its inception 10 years ago. A Provider Assurance Function will replace FAM from October 2009; the role has been upgraded so that all team members will hold or be working towards a professional qualification. The new Provider Assurance Team will continue to review providers’ systems through a programme of risk-based visits but the focus of this team has been broadened to include assuring value for money—not just payments. The Provider Assurance Team will therefore also assure the eligibility of self referred customers. Where customers are referred by Jobcentre Plus, their eligibility will be checked by Jobcentre Plus itself.

2.23 The Provider Assurance Team will provide assurance that providers’ fraud prevention systems adhere to the four key principles DWP is introducing into CEP contracts. DWP is also introducing a set of further checks into the payment and security processes. These include checking direct with employers and individuals in a significant sample of cases that job outcomes being claimed by providers have actually occurred.

2.24 Risk Assurance Division undertakes investigations in response to allegations arising from DWP staff or third parties. It operates independently of those responsible for commissioning, controlling and accounting for the CEPs. Risk Assurance Division investigations staff are professionally qualified investigators who assess the quality of evidence in the allegation and investigate where there are sufficient grounds to proceed. This typically involves site visits, interviewing people (sometimes under caution) and examining evidence.

2.25 Minor irregularities and findings of non-compliance are reported back to contract management and addressed internally. Where investigators suspect reasonable grounds that a serious criminal offence has been committed, Risk Assurance Division will refer the matter to the police, where there is sufficient evidence.

2.26 Where it identifies any significant control issues relating to the Department’s business and those with whom DWP contracts, it reports these to the Permanent Secretary and Departmental Audit Committee, a non-executive committee of the Department.
2.27 During the period 1 April 2006 to 31 August 2009, 78 allegations have been subject to investigation by the Department. Of the 72 investigations that have completed:

- in 14 cases the investigation discovered evidence that documentation included, or might include, deliberate false representations, typically in relation to client signatures or details of the service provided; and
- in another 16 cases, irregularities were considered to be issues of contract compliance (e.g. invalid documentation to support claim or full conditions not met to warrant claim), with no clear intention of making an unwarranted gain or causing a loss to DWP.

2.28 During the same period, five investigations undertaken by Risk Assurance Division have resulted in a referral to the police. In other cases where deliberate false representations were suspected, police referral was not considered appropriate because the amounts involved were low in value (i.e. typically less than £2,000) or no clear culprit could be identified.

2.29 In the same period over 400,000 customers were helped into work through CEPs. In none of the cases investigated did the Department conclude that a provider was engaged in a systematic, organised policy of seeking to obtain invalid payments through fraud. Typically, in the few instances where it has been necessary to hold an investigation, Risk Assurance Division found a combination of illicit behaviour by individuals and inadequate management oversight and controls on the part of providers.

**Wider control and assurance arrangements**

2.30 Other control mechanisms are in place to guard against fraudulent claims.

2.31 The Department’s pre-qualification and evaluation process stringently tests the suitability of bidders:

- The Department will treat a bidder as ineligible to tender in cases where it becomes aware that they or their directors (or other person who has power of control) has been convicted of any of a range of specified offences including:
  - fraud;
  - corruption;
  - bribery; and
  - conspiracy.

- The Department treats a bidder as ineligible to tender in cases where it is (or becomes) aware that any of a number of specified circumstances apply to the bidder, including:
  - criminal conviction relating to business conduct; and
  - grave misconduct in the course of his business.

2.32 Contractual arrangements require the provider to have monitoring procedures in place to track the progress of participants. This tells them when they have entered into employment and if they have sustained this employment for the required period.

2.33 Where DWP, either through the new spot checks, routine assurance visits or day to day contract management activities, suspect irregularities within the delivery of the contract it can use the expertise of Risk Assurance Division who are permitted immediate access to all records to undertake the necessary investigation.

2.34 All cases of improper or fraudulent practice are taken seriously even if they only involve a single individual. In cases of organised fraud the Department would terminate a contract; however, DWP is committed to underlining with providers the seriousness of any instance of fraud. These include commitments to ask for a Board level response from the company, detailing the actions that they have taken, before considering the next steps.

2.35 If DWP is misled and suffers loss, it will recover any amounts paid in respect of invalid claims made by the provider as well as damages that are appropriate. The Department will also seek clarification and assurances from the provider in respect of any disciplinary matters or procedural changes it deems appropriate. If the Department discovered that a provider was deliberately seeking to submit false claims with the knowledge and/or collusion of senior officers of the organisation the contract would be terminated immediately.

**Improving management information**

2.36 The Department’s approach toward monitoring provider performance is undergoing a fundamental change. In the past each programme had its own definitions of performance and processes for collecting management information. The measurement of, and indeed the payment for, performance has rested on the SL2 data collection form (a carbon paper form with a high incidence of mis-recording).
2.37 From October this year DWP is introducing a new Provider Referral and Payments system (PRaP), starting with Flexible New Deal. PRaP is an electronic, web-based system which will handle all transactions between Jobcentre Plus, providers and DWP to do with the referral and progression of customers and the payments providers receive for getting and keeping them in jobs.

2.38 PRaP will provide the Department with fully up to date performance information across providers and programmes based on standard definitions of what is meant by “job outcome” and “sustained job outcome”. PRaP is also key to embedding the highest standards of data security in our providers. PRaP will roll out to all DWP provision over time.

3. WHISTLEBLOWERS: PROTECTING THE EMPLOYEES OF PROVIDERS

3.1 DWP requires all Contracted Employment Programme (CEP) providers to demonstrate their commitment to prevent fraudulent activity and ensure integrity throughout the supply chain as a whole. These requirements are set out in DWP’s four key principles, which will be included in all new CEP contracts over £30,000, starting with Flexible New Deal Phase One. DWP is amending its existing CEP contracts over £50,000 to include the four key principles from November 2009.

3.2 The principles include a requirement for providers to have a “whistleblower” system in place to enable delivery staff to report inappropriate behaviour in respect of performance claims.

3.3 The Department Provider Assurance Team will check for compliance with these requirements by asking the providers to complete a Provider Systems Questionnaire, and by gathering intelligence and findings from Departmental colleagues who have day to day dealings with providers. This will be followed up by a visit to the provider to confirm what they are telling DWP is right. During the visit the Provider Assurance Team look for evidence that the “whistleblower” system is in place, that staff know it exists and what to do in the event that they have concerns. Evidence is gathered through detailed process walkthroughs and testing. This can include talking to employees to establish their level of knowledge of relevant systems.

4. DWP APPROACH TO CONTRACT MANAGEMENT

4.1 DWP is engaged in a major programme of change across all aspects of the Contracted Employment Programme (CEP) system which has required a strengthening of its approach to performance management and provider assurance. The key principles of this programme are set out in the DWP Commissioning Strategy.

4.2 DWP has re-organised its contract management structure and process. The re-organisation of DWP’s contract management was part of a wider review of the way in which DWP commissions, sources, awards and monitors contracts. This review culminated in the publication of the Commissioning Strategy in February 2008. This strategy includes the ambition to operate fewer, larger and longer contracts. In September 2009 there were 374 providers running 849 contracts. This was down from 438 providers running 1,153 contracts in March 2009 and 2,058 contracts in January 2007.

The impact of the centralisation of contract management

4.3 Central to the Commissioning Strategy is the ambition to develop more strategic relationships with providers. The Department will move away from a basic contract compliance model and into an approach where future thinking and insights from other delivery/management experience will be shared, with the aim of identifying opportunities for efficiency gains or better outcomes. DWP will be looking to providers to signal changes they are experiencing in customer characteristics so that the Department can factor that into policy development.

4.4 It is that Commissioning Strategy vision that the Department has pursued through the centralisation of contract management and the strengthening of performance management and controls systems. Moving to having fewer, longer and larger contracts requires further shifts and a move to Supplier Relationship Management structures, with senior managers responsible for working with larger suppliers across a strategic and operational agenda, but backed up by close contract management at the point of delivery.

4.5 In order to ensure that Jobcentre Plus was fully integrated into the new approach, during 2008–09 a New Ways of Working project, jointly led by Jobcentre Plus, DWP Delivery Directorate and DWP Commercial Directorate defined a standard operating model and clear roles and responsibilities for Jobcentre Plus’ engagement with providers at District level. This work has now been handed over to Jobcentre Plus and local Provider Engagement Meetings are taking place.

4.6 The main features of the Department’s current active contract management model are:

— active management of relationships with providers;
— regular and frequent Provider Performance Review process; and
— a clear disciplinary procedure for handling breaches of contract.

4.7 At the hub of the relationship with providers are DWP Supplier Relationship Managers. They and their teams meet with providers regularly and frequently to review performance, contract by contract and the issues arising from that review process, as well as to discuss the performance and position of the provider as a whole.
4.8 Provider Performance Reviews enable a comprehensive, formal on-site analysis of performance led by the Supplier Relationship Managers. They are completed within six months of the start of a new contract and, for existing contracts, on the basis of a risk assessment but as a minimum annually.

4.9 Supplier Relationship Managers draw on a range of information to inform the Provider Performance Review:

— The achievement of key contractual performance metrics (typically job outcomes and sustained job outcomes).
— The quality of provision, as assessed through inspection by Ofsted in England, Estyn in Wales and (from January 2010) Her Majesty’s Inspector of Education in Scotland, and also through the DWP Quality Framework, which promotes the commitment to quality improvement through continuous self-assessment and development planning, culminating in an annual self-assessment Report.
— The standards of compliance as assessed by the Financial Appraisal and Monitoring team (by the Provider Assurance Team from October 2009).
— Intelligence received from Jobcentre Plus during regular Provider Engagement Meetings which brings together providers, contract managers and Jobcentre Plus at a District level.

4.10 Following the Provider Performance Review the provider and Supplier Relationship Manager develop and agree a Provider Development Plan based on continuous improvement. The plan sets out next steps and review dates.

4.11 For providers who are found to be unsatisfactory by Ofsted (or Estyn or HMIE) the Department contracts, via the Department for Business Innovation and Skills through the Learning and Skills Improvement Service, for support leading up to re-inspection. The Department also provides support for providers who are not unsatisfactory overall but who are found to have particular areas of weakness.

4.12 DWP contracts include a “Provider Default” clause, which details the Department’s approach to breach. Repeated or continual failure to meet performance target(s) constitutes a serious breach. In this case the Supplier Relationship Manager will serve a written termination notice on the provider giving sufficient detail of the breach. The provider and Supplier Relationship Manager will meet to agree how the breach will be remedied and detail this action within a contingency plan. If the provider fails to meet the action outlined within this plan the Contract Manager may serve 28 calendar days notice to terminate the programme/contract. During the course of the last six months DWP has taken action to terminate the poor performing elements of provision within CEP contracts in two instances.

4.13 The Department is developing a new Star Ratings performance tool. Its purpose is to produce, for each programme, a forced ranking of provider job entry, quality and contract compliance performance every six months expressed in terms of the number of stars achieved.

4.14 Star rating was developed with input from providers and is currently used in Employment Zones. Employment Zone Star Rating results are published every six months on the DWP website. The Star Rating model will be applied in Flexible New Deal, where it will be used every six months to adjust market share between competing prime contractors. DWP expects Star Ratings to be a powerful driver of continuous performance improvement. Flexible New Deal Star Ratings will be in the public domain and published on the DWP website.

*Contract management in the prime contractor model*

4.15 In the prime contractor model the Department holds the prime contractor to account for the delivery of performance and quality throughout its supply chain of partners and sub-contractors. The contracting process for new programmes requires bidders to provide detailed information about their delivery model and the contribution that each of their sub-contractors will make. These arrangements are transparent (details will be published on the DWP website) and will be reviewed regularly as part of contract management, as described earlier.

4.16 At the same time the Commissioning Strategy committed the Department to a market stewardship role: playing an active and transparent role to ensure that smaller, local providers, who have the capabilities needed and who perform well, can flourish and develop. A central part of this role is provided by the Code of Conduct which was published as part of the Commissioning Strategy and which forms part of contracts for new programmes starting with Flexible New Deal.

4.17 The Code of Conduct states that the development of smaller sub contracted providers will be supported and encouraged by prime contractors and that they should provide a reasonable level of extra support for new entrants into the market. It also states that funding should be on a basis that is fair to the different organisations involved and reflect relative ability to bear particular risks. It was developed in consultation with officials from the Office for the Third Sector, and used the principles of the Compact’s Procurement code and good practice from the Employment Related Services Association code of conduct.

53 Star rating system is described at http://www.dwp.gov.uk/supplying-dwp/what-we-buy/welfare-to-work-services/star-rating-system/

4.18 Prior to publication of the DWP Commissioning Strategy, there was no specific Code of Conduct in place to underpin and support sub contractors. Up until this point, supplier contract management provided the only route for any advice and support. Additionally, DWP is contracted directly with a significant number of providers who are less likely to have lengthy supply chains.

4.19 Therefore as a consequence of the Commissioning Strategy’s prime contractor approach, supply chain management and development has become more important, increasing the relevance of, and strengthening, the Code of Conduct. As a direct response to this, it was proposed that a two year pilot of a “Merlin Standard” should be developed to produce an industry supported accreditation process specifically designed to address the Code of Conduct, taking into account and dovetailing with existing standards and internal processes. In addition there should be an arbitration and mediation function to consider grievances which have failed to be resolved through normal dispute resolution processes.

4.20 DWP will fund this pilot in the early days, moving towards an outcome of an independent and self-funding industry led accreditation and information service being in place by July 2011 (Merlin Standard).

4.21 The Code of Conduct itself spelt out the key values and principles which DWP expects of providers and responsibilities of prime contractors. The development of a bespoke accreditation based standard—the Merlin Standard—will help embed these principals whilst at the same time provide an opportunity to drive innovation and best practice across the welfare to work market. An industry led Merlin Advisory Group will take responsibility for overseeing the development of the standard which will draw on existing continuous improvement approaches, standards and best practice used in the sector. In addition there will be an arbitration and mediation function which will consider grievances which have failed to be resolved through normal dispute resolution processes.

Customer Experience

4.22 The Commissioning Strategy also sets out how the Department plans to ensure that the customer experience plays an increasingly important part in the commissioning of provision, how it is delivered and how it is improved. Jobcentre Plus continues to own the end-to-end journey for every customer throughout the life of a benefit claim and has the central role in assuring the quality of the customer experience. The Provider Engagement Meetings provide the forum for providers and Jobcentre Plus staff and managers locally to have regular dialogue at appropriate levels to ensure that problems are identified and acted upon.

4.23 The DWP Customer Charter has been developed based on what customers have told the Department is important to them. It provides a high level commitment to the service standards that all customers can expect in all their dealings with the Department. Each area of the Department already has well documented service standards and these are being aligned with the new DWP Customer Charter headings of right treatment, right result, right time and easy access.

4.24 In order to ensure that customers, Jobcentre Plus and providers know about their rights and responsibilities and what they can expect of employment programmes the Department is currently examining the processes, guidance and information issued when customers are referred to a provider.

4.25 DWP is working on a joint initiative with the Employment Related Services Association to develop a statement of rights and responsibilities specifically aimed at customers using contracted employment provision. This will sit underneath the wider DWP Customer Charter. It will include details of the customer complaints procedure. DWP plans to launch this addition to the DWP Customer Charter in October 2009.

September 2009

Memorandum submitted by Ingeus UK (EP 15)

INTRODUCTION AND SUMMARY

1. Ingeus UK, formerly known as WorkDirections, is part of the international Ingeus group of companies, delivering welfare-to-work services in the UK, France, Sweden and Germany. Since 2002 we have helped individuals into employment through our Private Sector Led New Deal, Employment Zone, New Deal for Disabled People (NDDP), London Development Agency, European Social Fund and Pathways to Work programmes. We have been awarded two Flexible New Deal contracts for Leicestershire, Northamptonshire and Nottinghamshire and also for Edinburgh, Lothian and Borders, Lanarkshire and East Dunbartonshire, Ayrshire, Dumfries, Galloway and Inverclyde.

2. Ingeus welcomes the Committee’s inquiry. An effective system of contract management and quality assurance is key to ensuring that the employment programme market delivers for the customer/jobseeker, and the Government and taxpayer. Our position is outlined in the papers “Buying quality performance” (July 2006) and “Performance measures for welfare-to-work programmes: The relevance of Australian star ratings to the UK” (July 2007).
3. Since 2002, when Ingeus began delivering DWP programmes, the Department has made significant progress in developing the contract management framework. However, the full impact of the shift outlined in the Department for Work and Pensions Commissioning Strategy is still feeding through into contract management and implementation of employment programmes.

4. There is a need for more investment in contract management and supplier relations in order to drive further improvements. The move towards the prime contractor model will change the role that DWP needs to play in ensuring that public funds are protected and that best value for money has been obtained.

5. Prime contractors have taken on the responsibility for fraud prevention and detection and for ensuring quality delivery throughout their supply chain. They will be investing in systems and staff to ensure they can fulfill those responsibilities.

6. DWP resources should not duplicate this investment. DWP contract management could be strengthened by increasing spot checking, and verification of systems and procedures. Providers’ assessment of the quality of their own provision should be independently verified and a better understanding of what quality means for customers is required.

7. DWP needs to strengthen its ability to ensure not only that public funds are protected and best value obtained but that all customers receive a good quality service. Research into customer satisfaction is a welcome step but further work is needed to see how the customer charter and a customer satisfaction metric can be used to drive quality improvements.

8. DWP, Jobcentre Plus and providers need to work in partnership to drive performance and quality improvement. Increasing customer voice in services may highlight areas where current processes are inefficient and affecting customer confidence in the welfare-to-work system.

**CONTRACT MANAGEMENT AND FINANCIAL ASSURANCE**

9. Safeguards are in place to ensure that providers are only able to claim outcome-related payments when customers have moved into employment.

10. During the procurement process, all providers outline their Fraud Prevention Strategy and Protected Disclosure Policy as part of their bid for contracts. Prime contractors also outline how they will ensure that these are implemented throughout their supply chain and how subcontractors’ capacity in these areas will be built to ensure claims for payment are legitimate.

11. Recent changes to DWP contracts reinforce prime contractors’ responsibility for fraud prevention and detection throughout the supply chain. The consequences of failing to meet these responsibilities are clearly outlined (financial penalties and the potential for contracts being withdrawn).

12. Provider payments for job outcomes and sustained job outcomes have previously been dependent on providing a correctly completed job evidence form (called a stencil). This system is highly resource-intensive as providers have to employ a team of staff to chase employers and employees to gather the evidence. In some instances (particularly if the evidence was needed for a 26-week sustained job outcome) the employer and/or employee would not want to complete the paperwork. Customers who move into work often do not want their employer to be contacted due to fears of the stigma associated with having been long-term unemployed.

13. An alternative to providing job evidence stencils is to check whether the individual has stopped claiming out-of-work benefits. This approach has been introduced for Pathways to Work and is expected to be the method for evidencing Flexible New Deal outcomes. This is a significant step forward as it will allow resources previously used to gather evidence to be used to support customers.

14. Concerns have been raised about a wholesale move to using “off-benefit checks”. In the short term, the Department for Work and Pensions could test the system by contacting a sample of employers to verify the employment outcomes alongside the “off-benefit” check. Over the longer term the Government should work towards a system where HMRC data can be used to verify that someone has both moved off benefits and into work.

15. The proposed Provider Referral and Payment system has the potential to ensure consistency of provider and DWP payment team information in relation to claims relating to job outcomes. This system is not yet operational but should also allow for strengthened analysis of patterns of payment claims to identify any risk areas—for example low sustainability rates for a particular employer at 26 weeks.

16. The move towards a prime contractor model will see increased responsibility for prime contractors to build the capacity of their subcontractors in this area. In addition, the scale of FND contracts and the increasingly large and complex supply chain will mean that Prime Contractors have to develop more extensive internal assurance and process checks.

17. In a system with multiple tiers it is important to clarify the roles of Contract Managers at the central DWP level and the role of Third Party Provision Managers at a local level. This clarity will be important both for Prime Contractors and their subcontractors (e.g. prime contractors may be dealing with DWP, and subcontractors regularly interacting with the TPPM).
Ingeus has established processes with our subcontractors to support and improve the audit and fraud prevention processes of our supply chain. These draw on the risk rating and assurance model developed by DWP. Ingeus’ quality and financial assurance staff have the experience and operational background to be able to support subcontractors and develop appropriate systems and safeguards.

**Contract Management and Quality**

19. DWP is responsible for ensuring that the standards of quality delivered by providers is commensurate with contract terms although contracted provision can be inspected by Ofsted (Office for Standards in Education56).

20. DWP uses the Ofsted Common Inspection Framework (CIF) in its contract management framework to assess quality. The four key questions of the CIF focus on how well customers achieve, how effective teaching, learning and training are, how well customers are guided and supported, and how well programmes meet the needs and interests of customers. Concerns have been raised that these questions are more appropriate for education and learning provision than employment programmes.

21. In addition to CIF-based assessment frameworks DWP also includes minimum requirements in its contracts with providers (for example fortnightly interviews for customers on Flexible New Deal).

22. As well as ensuring that providers meet minimum standards, consistent and transparent assessment of the quality of employment programmes can inform contracting decisions and customer choice.

23. There is a need to strengthen DWP’s ability to assess and measure quality on an ongoing basis. Current assessment methods rely on providers’ own assessments of the quality of their provision and there are not sufficient safeguards to ensure that these assessments are made on a sound or consistent basis between providers and across Contract Managers.

24. Increased flexibility for providers in designing their programmes to meet individual customers’ needs (through commissioning of “black box” programmes) can make comparisons of quality challenging. However, the move towards measuring sustainability of employment outcomes at 26 weeks has provided a good (and comparable) indicator of quality. This needs to be supplemented by increased spot checking and interaction with customers by DWP rather than increased paperwork and prescription. Moves to measure quality must not undermine flexibility, innovation and performance improvements.

25. DWP is committed to conducting Quality Audits involving remote spot checking of action plans and case notes. This approach could provide a sound basis for developing a system for the direct evaluation of the quality of interactions between advisors and customers but more site visits and engagement with customers could verify providers’ own assessment more comprehensively.

26. It is important that quality assessments conducted as part of contract management are included consistently and transparently in Star Ratings. On two separate occasions, Ingeus’ full financial assurance and monitoring (FAM) rating was not included in these calculations, which affected the star ratings result. This is part of a broader concern that Contract Managers need to act as the focal point for ensuring that action plans for providers respond to FAM and Ofsted results.

27. In general, Ingeus believes that the current star ratings system is flawed and needs to be revised in order to provide a fair, transparent and consistent measurement by which provider performance and quality can be compared.56

28. Assessing and measuring quality needs to be linked to clear actions. This is both in terms of action plans for improvement and contracting decisions that inform customer choice in a clear and transparent way.

**Contract Management and the Voice of the Customer**

29. Ingeus welcomes the principle of a customer charter although it is unclear how the charter will apply or be adapted for use in contracted employment programmes. Customers need to understand what they can expect from employment programmes and also what their responsibilities are.

30. The DWP Delivery Unit is currently working with researchers to understand which factors are important to customers in service delivery and how they understand quality. Investing in assessing customer experience will add value to quality assurance and could improve the current star ratings by adding a customer satisfaction measurement.

31. In June 2008, Ingeus published a research paper on the role of “Choice and Voice in welfare reform”. It argued that customer feedback collected and managed in the right way could improve service design, performance measurement and contractor accountability as people claiming benefits are a critical source of information about the service that will work best for them.

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55 Ofsted inspections are infrequent and even with increased contract lengths (five years for Flexible New Deal and Jobcentre Plus Support Contracts) it is unlikely that any contract will have more than two full inspections.

56 Ingeus published a paper, “Performance measures for welfare-to-work programmes: The relevance of Australian star ratings to the UK” (July 2007), to inform development of a UK star ratings system.
32. When measuring customer experience of contracted employment provision it is critical to recognise the ongoing responsibility of DWP and Jobcentre Plus. Customer experience may be significantly affected by the interaction between the benefits or decision-making and appeals systems and contracted employment provision.

33. DWP, Jobcentre Plus and providers must work together to ensure that the whole welfare-to-work system safeguards public funds, drives performance improvements and ensures quality for all customers.

October 2009

Memorandum submitted by the British Association for Supported Employment (BASE) (EP 16)

1. The British Association for Supported Employment (BASE) is the national trade association representing nearly 200 organisations that provide specialist employment services to disabled jobseekers and employers. BASE was formed in 2006 through the merger of the Association for Supported Employment (AISE) and the National Association of Supported Employment (NASE) and represents both open placement providers and supported businesses.

2. The customers that BASE members serve are those considered to be furthest away from the labour market and who require specialist support services to help them to find and keep work. This includes people with learning disabilities, autism, Asperger’s syndrome, people with long term mental health needs and people with severe physical and/or sensory impairments. Although employment levels among these groups have increased slightly over the last decade, they remain disappointingly low, with some groups experiencing over 90%—95% unemployment.

3. BASE welcomes the opportunity to contribute to the Select Committee’s report into the management and administration of contracted employment programmes. We have previously submitted evidence around the DWP Commissioning Strategy (attached) and will not repeat the views stated within it. We believe that much of the content is applicable to this review.

4. BASE continues to have deep concerns about the procurement and administration of employment programmes for people with significant disabilities. The current tender exercise for Work Choice, the new programme that will replace Workstep and Work Preparation, has highlighted some of the difficulties experienced by local specialist providers who should have a valuable role to play within the delivery of specialist employment programmes.

5. It is clear to BASE that the current procurement of specialist support for disabled jobseekers is more about fitting into a rigid procurement process than meeting customer needs. The original aim was to replace a programme that was seen as not producing sufficient outcomes. BASE would dispute the original premise given that it has been the only programme delivering its targeted outcomes and within budget. Standards have increased substantially since an inspection regime was introduced.

6. Some of our members are involved as subcontractors in the delivery of Pathways to Work. In two contract areas, we are aware of difficulties where the prime provider has not paid the subcontractor since the start of the contract. One of these subcontractors sought to challenge this by contacting DWP only to be told that DWP does not speak to subcontractors. This seems at odds with DWP’s stated aim of “active stewardship” within the market.

7. Many of our members have reported considerable problems in relation to the tender exercise for Work Choice. Despite assurances that the process would be made as streamlined as possible, providers have found that they have had to be very active in contacting shortlisted bidders and have had to complete a variety of information templates for multiple bidders, often within unacceptably tight timescales. We do not believe that DWP has been able to influence the prime bidder sector sufficiently in this area.

8. BASE is very concerned that the procurement strategy is resulting in reduced funding for direct provision. We are aware of prime providers offering subcontracts with a 30% management fee deduction. It has been difficult for subcontractors to compare offers from different prime providers. The new Work Choice programme anticipates a higher level of outcomes despite reduced funding. This is compounded by the new contract management costs being taken from delivery funding rather than DWP management budgets. We believe that this will drive provision away from the harder to help clients and could eventually result in a failure within the subcontractor market.

9. It has been stated that Work Choice is a programme for all people with disabilities where disability is the primary barrier to employment. This appears to blur the boundaries with the remit for the Pathways to Work programme. Our understanding was that the new programme would focus on those who need intensive or long term support that Pathways to Work cannot meet. BASE is particularly interested in provision for those people further from the labour market and we are very concerned at the apparent lack of awareness of PSA16 amongst shortlisted prime providers. An event in the south east of England found that only one shortlisted prime provider knew what PSA16 was about. Indeed, some said that they would refer such customers to local authority provision. This is extremely worrying for a programme whose primary focus should be to meet the needs of the PSA16 disability groups. Indeed, DWP has just issued a note to prime providers to remind them about PSA16. BASE is concerned that the shortlisted prime
providers do not fully understand the needs of the PSA16 customer group and that their anticipated outcomes and costs may not be wholly realistic. We have yet to see an adequate equality impact assessment that identifies mitigating actions to address these foreseeable dangers.

10. There appears to be little awareness within across Government department of the range of initiatives being taken forward at this time. BASE continues to reinforce the need for alignment of Work Choice with the Valuing Employment Now strategy and there seems to be little awareness of other initiatives such as the Getting a Life pilots. Additionally, we believe that more appropriate and in depth consultation with stakeholders during the design of Work Choice would have alleviated some of these issues. Some proposals such as changes to financial incentive rules appear to have been made without any consultation and so the implications have not been fully understood.

11. There is widespread scepticism about the ability for the DWP Code of Conduct to be effectively applied. BASE believes that it needs to be far more robust and be a legal requirement within contracts. We are pleased that it is proposed to have a means of independent arbitration. We are, however, still concerned about how DWP can resolve contractual disputes and improve communications with subcontractors.

October 2009

Supplementary memorandum submitted by the Department for Work and Pensions (DWP) (EP 17)

QUESTIONS ARISING DURING ORAL EVIDENCE

1. The Committee has been informed that in Pathways all third sector subcontractors are no longer working for the prime contractors. Can you please confirm (a) how many third sector subcontractors there were in total under the Pathways contracts and (b) how many of these are still working for the prime contractors.

(a) How many third sector subcontractors were there in total under the Pathways contracts?

There were 33 third sector sub-contractors delivering Pathways to Work when contracts were let. Some of these organisations were sub-contracting to different prime contractors or delivering in more than one location.

(b) How many of these are still working for the prime contractors?

Of the original 33 sub-contractors involved in delivering Pathways to Work, 28 organisations are still involved in delivery.

Prime contractors have a range of partnership agreements with third sector organisations, for example, sub-contracting, service level agreements and informal partnerships. In answering this question, only sub-contracts and service level agreements have been included as these are deemed to be formal arrangements.

2. In his evidence MoS EWR said that outcome payments are not made for zero hour contracts. However this is inconsistent with the scenario in the Benefit Busters programme where a great deal of emphasis seemed to be placed on securing zero hour contracts. The Committee would like further information on outcome payments for zero hour contracts, particularly whether outcome payments could be made where someone is working (even part-time) but has a zero hour contract.

Payments to providers for job outcomes are made on the basis of weekly hours worked and the length of time the job has lasted or is expected to last, depending on the provision, irrespective of the contracted basis for the job outcome. Whether a customer has found work through provision that pays providers for a job expected to last 13 weeks (eg Pathways), or that has lasted 13 weeks (eg FND), the provider has to have evidence from the employer that the job fulfils the criteria in the provider’s contract in order for us to pay for the outcome. If a person has a zero hours contract but the employer confirms in writing that the job is expected to last 13 weeks and is at least 16 hours per week (eight in the case of Pathways) then we would pay for the outcome. If the employer is not prepared to make this declaration then the provider cannot claim for the outcome.

SUPPLEMENTARY EVIDENCE

3. Does the ban on perverse incentives mean that individual bonuses are not permitted across the board or is there some flexibility for providers to interpret the rules and award bonuses?

There is some flexibility for providers to award bonuses. The checks on providers’ processes by the Provider Assurance Team will ensure that any bonus system does not create a perverse incentive to make fraudulent outcome claims.
4. The Committee has been told that off benefit checks are only 50% accurate. Why does the Department not use HMRC data to cut back on the paperwork required? The 50% quote came from a DWP report on the destination of benefit leavers which stated that only 50% leave for to take up a job.

The 50% accuracy rate quoted represents a percentage of all benefit leavers and does not apply to the “off benefit check” of providers’ outcome claims where providers have evidence that the customer has been in work for 13 weeks. Where DWP undertakes an off benefit check to validate a provider’s claim for an outcome payment (for example the automatic check the Provider Referral and Payment (PRaP) system will undertake for Flexible New Deal) a sample of the claims will be subject to a further check directly to the employer and/or the customer.

There is a six month lag before HMRC data becomes available which means this is not a suitable source of evidence on which to make payments to providers.

5. This is another question about the ministers session on Management of Contracted Employment Programmes. In oral evidence we were told that of all the fraud investigation only 16 cases were of probable document falsification were found. However in written evidence you said 14. Which is correct, or is it a matter of one is more up to date?

The 16 cases quoted at the Select Committee Hearing is an update on the 14 cases quoted in the DWP Memorandum. Between 1 April 2006 and 31 August 2009, 78 investigations were initiated. As at 31 August 2009, in 14 of these cases evidence of wrongdoing had been discovered, eg evidence that documentation included, or might include, deliberate false representations. As at 20 November 2009, a further two on-going investigations had progressed sufficiently to establish evidence of wrongdoing, increasing the total from 14 to 16.

The breakdown of the programmes for the 16 cases where evidence of wrongdoing has been discovered through investigations initiated between 1 April 2006 and 31 August 2009 is as follows:

<table>
<thead>
<tr>
<th>Programme</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Deal overall comprising</td>
<td>9</td>
</tr>
<tr>
<td>New Deal for Young People</td>
<td>3</td>
</tr>
<tr>
<td>New Deal 25 plus</td>
<td>3</td>
</tr>
<tr>
<td>New Deal for Disabled People</td>
<td>1</td>
</tr>
<tr>
<td>New Deal Prime Contractor **</td>
<td>1</td>
</tr>
<tr>
<td>Progress to Work</td>
<td>1</td>
</tr>
<tr>
<td>Workstep</td>
<td>1</td>
</tr>
<tr>
<td>European Social Fund</td>
<td>2</td>
</tr>
<tr>
<td>Employment Zones</td>
<td>1</td>
</tr>
<tr>
<td>Ethnic Minority Outreach</td>
<td>1</td>
</tr>
<tr>
<td>Action Teams</td>
<td>1</td>
</tr>
</tbody>
</table>

** the abuse was across a range of New Deal programmes being delivered by a single New Deal Prime Contractor and is separate from the other eight incidents.

November 2009