



House of Commons
Work and Pensions Committee

**Work Programme:
providers and
contracting
arrangements:
Government Response
to the Committee's
Fourth Report of
Session 2010–12**

**Sixth Special Report of Session 2010–
12**

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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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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

Committee staff

The current staff of the Committee are Carol Oxborough (Clerk), Andrew Hudson (Second Clerk), Hanna Haas (Committee Specialist), Jessica Bridges-Palmer (Committee Media Adviser), James Clarke (Inquiry Manager), Emma Sawyer (Senior Committee Assistant), Hannah Beattie (Committee Assistant).

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Sixth Special Report

On 8 May 2011 the Work and Pensions Committee published its Fourth Report of Session 2010–12, *Work Programme: providers and contracting arrangements*, HC 718. On 8 July 2011 we received the Government's Response to the Report. It is reproduced as an Appendix to this Special Report.

In the Government Response, the Committee's conclusions and recommendations are in bold text. The Government's response is in plain text.

Appendix: Government response

Introduction

1. The Government welcomes the Fourth Report of the Work and Pensions Select Committee Session 2010-12 which considered the contracting arrangements for the Work Programme.
2. The Government launched the Work Programme nationally in June 2011, ahead of schedule. The Work Programme is the biggest payment by results employment programme Great Britain has ever seen and along with the introduction of Universal Credit is the focus of the Government's drive to tackle long term unemployment.
3. The Committee's report is supportive of most of the principles of the Work Programme but highlights some areas where the Committee have concerns. This response attempts to address those concerns.

Conclusions and recommendations

Funding employment services from future benefit savings

[Paragraph 20] **The Work Programme will be funded from projected future benefit savings, the scale of which is as yet unknown. This means that, instead of funding the programme from the Departmental Expenditure Limit (DEL) in the usual way, the source will be Annually Managed Expenditure (AME) from which benefits are paid (the so-called AME/DEL switch). It is a bold decision by the Government to press ahead with this untried method of funding. We welcome the extra resources that the Government has released by using the AME/DEL switch mechanism to help people find jobs in a time of constrained public finances. However, there is a risk that the expected savings will not be realised if too few people gain full time work or if the number falling out of work rises. We recommend that the Government publishes at regular intervals the cost of the Work Programme and an estimate of the benefit savings accrued from it. We also recommend that the Government commission an independent external organisation to conduct a full evaluation of the programme, including an assessment of its cost-effectiveness in relation to previous employment programmes.**

As the Committee notes, the Department for Work and Pensions has agreed a mechanism with Her Majesty's Treasury whereby benefit savings will be transferred to the Department to help pay providers for the results they achieve. The Department will also allocate funding from its Departmental Expenditure Limit. As the bulk of payments to providers will be available only after individuals find sustained employment, the costs of the programme are closely linked to the savings generated.

In addition, the Department has set minimum performance levels 10% above the level of job outcomes expected without a provider's intervention. This means providers must make a real difference and generate benefit savings, and face potentially losing their contracts if they fail to do so.

The Department has committed to publishing information about benefits savings generated by the programme as part of its public Transparency Indicators. An indicator looking at the average benefit savings per individual by cohort of claimants will be published from autumn 2013.

The Department is also in the process of commissioning an independent evaluation of the Work Programme and this will be published in due course.

Personalised support for Work Programme customers

[Paragraph 24] We support the principle of black box provision of employment support, where prime contractors will be allowed considerable freedom to personalise interventions to match the needs of jobseekers, as long as there is transparency about what prime contractors undertake to provide within the black box. DWP should not interfere with this approach without exceptional reason. However, DWP must ensure that prime contractors are held to account for what they promise to deliver within the black box and that protections for the customer are included within contracts. We request that the Government clarifies how this will be achieved, in response to this report.

The Department welcomes the Select Committee's support for the black box specification of the Work Programme. This is a principle of the programme that has attracted widespread approval from the welfare to work industry as it allows providers to innovate and design support that properly addresses the needs of individuals and local labour markets.

However, the Department recognises the importance of transparency, and that providers are held strictly to account for the support they deliver.

Providers' minimum service offers, as outlined in their winning bids, have been published on the Supplying DWP website so individuals and their representative groups know what to expect from the Work Programme. Providers will be held to account if they fail to deliver the minimum service they have guaranteed.

Claimants who aren't satisfied with the service they have received can make use of a new strengthened complaints process. If a complaint is referred to the Independent Case

Examiner, who is then unable to resolve the dispute and finds the provider to be at fault, the provider will be charged £5,000.

Use of intermediate labour markets within the black box

[Paragraph 28] We welcome that Work Programme prime contractors may choose—within the black box—to use a proportion of their fees to subsidise jobs for their Work Programme participants. However, there has previously been a perception that EU state aid rules could be a barrier to private sector employment of this kind. Whilst it will be for prime contractors to establish the legality of such interventions under state aid rules, we recommend that the Government produce straightforward guidance on how intermediate labour markets may be used within the Work Programme in a way which is compliant with state aid rules.

Due to the black box approach the Department does not have the necessary degree of control over how providers spend State funds for it to be held as state aid if providers choose to subsidise employment in any form.

It would not be appropriate to produce guidance for providers on this issue as this may lead to the Department appearing to be exercising influence over how providers spend State funds, which would go against the black box nature of the Work Programme.

The tendering process

Prime contractors' relationship with voluntary organisations

[Paragraph 42] We welcome the establishment of the Framework for the Provision of Employment Related Services (ERSS) and the intention to create a mix of private and voluntary sector involvement in ERSS consortia. Without the involvement of voluntary sector organisations the programme would risk losing a wealth of innovation and specialist knowledge.

The Framework for Employment Related Support Services, established in 2010, will be the vehicle for procuring all the Department's future provision with a value of over £10 million. It will allow the Department to procure support more quickly and responsively, in around 6 months rather than 18.

The Work Programme exemplifies the partnership working that the Framework aims to encourage between those large organisations with the financial and organisational capacity to deliver large, long-term, outcome-funded contracts, and smaller specialist and voluntary organisations with the hands-on expertise to change people's lives. The Department has selected two voluntary organisations as Work Programme prime providers and many more will be involved in delivery, proving that such organisations can make a valuable contribution to tackling long term unemployment at all levels.

[Paragraph 43] It is important that the voluntary sector's involvement in the Work Programme is meaningful and that organisations are not simply used to make prime contractors' bids more attractive. We welcome the Minister's assurance that any prime contractor which included a voluntary sector organisation in their bid at the tendering

stage but was subsequently found not to be using that voluntary sector organisation in service delivery will have their contract cancelled. DWP must monitor this and act accordingly once the programme is underway.

The Department was clear that only those bids proposing high quality, credible plans to support all participants in all areas within a contract package area would be successful. In many cases, as expected, this involved proposals to subcontract small local and specialist organisations, many of whom are from the voluntary sector.

Post tender clarifications between prime providers and their proposed delivery partners will have led to some organisations being unable to agree terms, but in live running prime providers must seek the Department's express permission before changing their supply chains. The Department will only grant permission where there is a clear reason for doing so. This will protect the smaller subcontractors from unjustified exclusion and ensure prime providers deliver what they have promised, and leaves the door open to good organisations to get involved in the Work Programme where they aren't already.

Prime providers will be paid primarily for the results they achieve in supporting people into sustained employment, and success is uncapped. This means there are strong financial incentives to constantly strive to maximise performance, so if a voluntary organisation can demonstrate that it can support people into work cost effectively, it will be in prime providers' interests to engage their services.

The Merlin Standard offers additional safeguards to subcontractors, and all prime providers will be required to achieve Merlin accreditation during the Work Programme's first year.

[Paragraph 44] There may be subcontractors who have formed bids with framework providers who have been unsuccessful in gaining preferred bidder status. These organisations may hold significant expertise and could face a lack of involvement in the Work Programme through no deficiency of their own. We expect the procurement process to be sufficiently flexible to enable Work Programme prime contractors to engage these organisations where appropriate.

Please refer to response above.

Effectiveness of the procurement process

[Paragraph 54] DWP seem to have learned lessons from previous procurement exercises in setting the bid evaluation criteria for the Work Programme. Its approach to the tendering process appears to have run relatively smoothly despite the very ambitious timescales set for it, and the Department deserves credit for this.

The Department is grateful for the Committee's comments on the success of the procurement exercise for the Work Programme.

[Paragraph 55] It is important that prime contractors do not place an unnecessarily onerous administrative burden on subcontractors when establishing their supply chains. The Department has a role to play in this and should work with prime

contractors and representative bodies within the industry to promote the use of a single simplified Expression of Interest form for subcontractors.

Supply chains are a critical element of the service so as part of the bid evaluation we sought significant information on supply chain capability and relevant competencies. However, it is for prime providers to determine their own procedures in partnership with their supply chains.

Competition within contract package areas

[Paragraph 66] We request that, in response to this report, the Government clarifies the extent to which discretion or flexibility may be applied when shifting market share from one prime contractor to another. We are concerned that prime contractors who are performing well relative to those in other contract package areas should not be penalised arbitrarily. The Government should also explain the rationale for setting the criterion for market share shift at 3% difference in performance level.

Discretion may be exercised in performance management action but will not be used to influence the reallocation of market share. This will occur at set times and is triggered when the strongest provider within in a contract package area clearly outperforms the weakest.

A three percentage point difference was decided on as the benchmark as this represents a clear performance difference but is narrow enough that providers will feel they can realistically gain market share if they perform better and lose it if they don't. This is an incentive to continuously improve performance.

Shifting market share away from a provider who performs poorly in relation to their contract package area but well in national terms would not be arbitrary. Providers are in competition with the other providers in their contract package area as they are working in the same conditions.

[Paragraph 67] We recommend that, within 18 months of the application of the first shift of market share between prime contractors, DWP undertake and publish a review of the impact on clients and prime contractors of the operation of this mechanism.

It is established practice in the Department to independently evaluate employment programmes, and we have already begun commissioning this for the Work Programme. Shifting market share is an important innovation in the Work Programme, so its impact on clients and prime contractors will be robustly evaluated and the results published.

[Paragraph 68] In order to ensure that competition between prime contractors in contract package areas is effective in driving up performance, the Government must ensure that transparent performance data is publicly available. We recommend that the Government carry out and publish a comparative evaluation of the levels of performance between contract package areas with two and three prime contractors after the first year of operation of the Work Programme, and then at regular intervals.

The Department will be publishing data at contract package area and contract level. Statistics on referrals will be published from spring 2012 and job outcome data will be

published from autumn 2012. The first Market Share Shift activity will be based on job outcomes as a proportion of referrals for the period April 2012 to March 2013.

Differential payments

Definition of job outcomes under the Universal Credit

[Paragraph 74] We welcome the Government's emphasis on payment by results and particularly the introduction of a sustainment fee. Universal Credit is to be introduced commencing in 2013 and the Department was not yet able to define what would constitute a job outcome under the new benefit system. We recommend that the Government indicate as soon as possible how a job outcome under the Work Programme will be defined once Universal Credit is introduced. This information will be fundamental to prime contractors who are in the process of planning their delivery of the programme.

Universal Credit and the Work Programme are the key elements of the Government's drive to tackle unemployment – one will make work pay and the other is helping benefit claimants to prepare themselves for work.

The Work Programme Invitation to Tender alerted bidders to the fact that the introduction of Universal Credit may lead to changes to Work Programme design, including the definition of job outcomes.

The Department is currently developing the design and delivery arrangements for Universal Credit, including its fit with the Work Programme. It will make any necessary changes to the Work Programme after discussions with providers.

Incentives to support all customer groups

[Paragraph 83] The differential payments model under the Work Programme has been designed to incentivise prime contractors to support all client groups, including those facing the greatest barriers to work. We welcome this and believe that it represents an improvement on previous employment programmes. We acknowledge that lessons have been learned and a determined effort has been made to reduce creaming and parking. However, the risk remains that providers will focus on the clients they assess as being easier to help within each of the different customer groups and that creaming and parking of participants who face significant barriers to work could still occur. This payment model is not the only incentivisation scheme available and its effectiveness in addressing creaming and parking will only become clear once the programme has been running for some time. We recommend that the Government keep the payment model under review and assess the outcomes for participants within and between each client group.

As the Committee acknowledge, the payment model is designed to minimise the risk of creaming and parking. It aims to align the costs to providers of working with different client groups with the price we pay them for supporting individuals into sustained employment, making it worth their while to support all groups.

However, to ensure that providers work with all individuals within a group, the Department has introduced a number of other measures.

There will be at least two competing providers in each contract package area, with the better performing provider with each claimant group receiving more referrals from that group.

Providers have published minimum service standards which will set out what all individuals can expect while they are on the Work Programme. All participants will be made aware of these levels before accessing the programme. Claimants who aren't satisfied with the service they have received can make use of a new strengthened complaints process. If a complaint is referred to the Independent Case Examiner, who is then unable to resolve the dispute and finds the provider to be at fault, £5,000 will be recovered from the provider.

The Department believes the right incentives are in place to address creaming and parking in the Work Programme, but will monitor the programme closely and review aspects of contracts if this becomes necessary.

[Paragraph 84] To inform the Government's assessment of the effectiveness of the Work Programme for all client groups, we reiterate our recommendation that it commission a full evaluation of the programme, to be conducted by an independent external organisation and carried out on a regular basis.

The Department is currently commissioning an independent evaluation of the Work Programme, which will include an assessment of the experience and outcomes from the Work Programme across claimant groups. We envisage that the evaluation will be over a three year period and will research the impact of the programme across and within the various participant groups.

[Paragraph 87] We welcome the Work Programme's focus on longer-term sustained employment, which represents an improvement on previous contracted employment programmes. However, it is important that the support participants receive to sustain employment while they are on the Work Programme equips them to remain in work and increase their earnings once they are no longer part of the programme. The Government should ensure that transparent mechanisms exist to track long-term outcomes from the Work Programme in relation to sustained employment and wage levels of participants.

Unlike in previous programmes where providers were paid for 13 or 26 week job outcomes, Work Programme providers will be paid to continue supporting participants in employment for up to 18 months for a typical jobseeker, and 27 months for an Employment and Support Allowance (ESA) claimant moving from Incapacity Benefit. This is a strong incentive for providers to find the right job for the individual and to continue supporting them in work, and also provides a mechanism for tracking longer term outcomes.

The Department has started the procurement exercise for a full independent evaluation of the Work Programme. We envisage that this evaluation will include gathering information about participants' employment outcomes after they leave the programme.

Regional variation

[Paragraph 94] The Government should monitor the comprehensiveness of a prime contractor's service in all localities within their contract package area and explain how it plans to assess whether the quality of provision is consistent across all local areas.

Providers have published minimum service standards which will set out what all individuals can expect while they are on the Work Programme, regardless of where they live in a contract package area. All participants will be made aware of these levels before accessing the programme. Claimants who aren't satisfied with the service they have received can make use of a new strengthened complaints process. If a complaint is referred to the Independent Case Examiner, who is then unable to resolve the dispute and finds the provider to be at fault, the provider will be charged £5,000.

[Paragraph 95] We are concerned that the needs of many Work Programme participants should not be neglected because prime contractors are not providing the same level of service across their contract package areas and that the payment model and performance management mechanisms should be sufficient to ensure consistency of provision. We are particularly concerned that participants in rural or remote areas and areas where job opportunities are few should not be neglected. We recommend that the Government monitors closely the regional and intra-regional delivery of the programme, and acts to ensure that any disparities in service delivery are resolved through its contract management mechanisms. If the reality of the programme exposes significant regional and intra-regional differences in provision, the Government should consider how the differential payments model might evolve in order to address this problem.

The Department was clear that only those bids proposing high quality, credible plans to support all participants in all areas within a contract package area would be successful. This included guaranteed levels of service to all individuals which have been published on the Supplying DWP website. If providers fail to deliver what they promised they will be held to account.

This, alongside the incentives to maximise performance, should ensure providers deliver a good service across their contract package area. In addition, the Department expects providers to develop and maintain effective relationships with local partners, ensuring that services continue to meet the needs of individuals and communities throughout each contract package area. However, the Department will monitor this and review aspects of contracts if necessary through its normal performance management regime.

Managing performance of prime contractors

Minimum performance levels

[Paragraph 104] The performance standards set for the Work Programme are very ambitious and create a significant financial and operational challenge for prime contractors. We are concerned that the high level at which minimum performance levels have been set should not put the financial viability of prime contractors at risk.

This in turn might lead to some clients receiving lower quality support and to significant costs to the Government in responding to service failures.

When designing the Work Programme the Department listened to the market. The Department gave providers the freedom they asked for to design their own support, and significantly improved the financial incentives to deliver results. In return, the Department wants to see a real improvement in performance over what was achieved in previous programmes, often barely over the non-intervention level.

Within the bid evaluation process we considered the capacity of bidders to deliver the level of service they offered, given their proposed financial model. Where we saw an inconsistency the bid was risk scored and the mark adjusted.

In addition, the Department's financial modelling for the Work Programme was externally assured. Providers can make potentially greater profits than in previous programmes if they deliver real results. If they don't, the Government is no longer effectively subsidising poor performers by paying providers large upfront service fees.

[Paragraph 105] The Government needs to clarify how the non-intervention performance levels have been calculated. It should also explain whether it is prepared to amend them in response to significant changes in unemployment rates or labour market conditions. We request that it does so in response to this report.

Non-intervention performance levels reflect the number of job outcomes that would be expected to occur in the absence of the Work Programme. This was calculated by the Department based on analysis of historical job entry rates.

For the Jobseekers Allowance (JSA) groups we have tracked outcomes using HM Revenue and Customs P45/60 information. For ESA claimants we have used administrative data for durations of claims to estimate the proportion of claimants reaching 24 months on ESA, the proportion that will leave ESA and of those the proportion that will leave to employment lasting at least 13 weeks.

These non-intervention performance levels cannot be compared directly with published performance figures for past programmes because the success measure is different; moreover the definition of the cohort (18-24 year olds who have been on JSA for nine months for example) is not directly comparable with past programmes.

The Department has no plans to review non-intervention performance levels but has reserved the right to vary aspects of the contracts if this becomes necessary.

[Paragraph 106] We recommend that the Government monitor closely the performance and financial stability of prime contractors and put contingency arrangements in place to ensure the continuity of high-quality provision for clients. In particular, we request that the Government sets out, in response to this report, the arrangements for replacing a prime contractor which withdraws from the Work Programme during the contract period with another framework provider.

In designing and delivering the Work Programme the Department has ensured that there are mechanisms to manage provider failure effectively both at the individual and market level. The Work Programme contracts were commissioned using the Framework for

Employment Related Support Services, set up in January 2011. The Framework contains 35 organisations who have been approved to supply to the Department (18 of which have been awarded Work Programme contracts). If provider failure happens the Department will be able to rapidly run a targeted competition, drawing on the Framework suppliers to replace the failing provider. This commercial approach is far more resilient than the approach taken under previous programmes where there was no Framework in place.

The Work Programme contracts have been set-up with 2-3 providers in each contract package area. This approach fosters competition in each to drive up provider performance. It also means that there will be at least one alternative provider in each area which can continue to support participants should a provider fail, in advance of a competition being run to replace the failing provider.

If it is not appropriate for an alternative provider to support participants whilst a failing provider is being replaced, the Department is also able to utilise Jobcentre Plus to support participants in the short term.

Key performance indicators

[Paragraph 110] The key performance indicators are an important mechanism for ensuring that participants in the Work Programme understand the level of service to which they are entitled and that prime contractors do not neglect any groups of clients. We welcome the Minister's commitment to publish the details of the key performance indicators for each client group. It will be just as important for the Government to hold prime contractors robustly to account against these measures as the minimum standard levels.

Details of the key performance indicators will be published regularly as soon as the Department has reliable and quality assured information.

Financial returns for prime contractors

[Paragraph 116] Given the demanding minimum standards set by DWP, we believe that it is unlikely that a provider will profit excessively from the Work Programme in the current labour market and economic conditions. Since the programme transfers very significant financial and delivery risks to prime contractors, it is acceptable to allow them to make a profit where they have delivered exceptional outcomes for jobseekers and significant savings in social security payments for the Government. We do not believe that payments to providers should be capped in the current economic conditions but they should be kept under review to ensure that prime contractors do not make excessive profits from the Work Programme if circumstances change.

A key feature of the incentive structure is that success is uncapped, and this will not change. The Department wants providers to aim high and get as many people into sustained employment as they can, and will pay them more the better they perform to drive innovation and investment.

Contract monitoring and variation

[Paragraph 122] The Work Programme needs to be sufficiently flexible to adapt to the realities of delivery and the economic climate and the Government will need to use its contract variation powers carefully to ensure that the Work Programme caters for all client groups. However, it must engage with prime contractors responsibly. Decisions about when to exercise its power to vary contracts should be based on robust and transparent data. We request that, in response to this report, the Government provides us with more information on the mechanisms it will use to collect and collate performance data.

The Department will use the Change Control Process set out in contracts to effect any changes to the Work Programme Contract. Provision Management Division's Specialist Commercial Team will handle negotiations.

Performance data will be fully collated through the Department's Provider Referral and Payment System (PRaP). In addition to this the Department will also be impacting the results of post payment validation checks on outcome performance. This will offer a transparent view of net performance for each provider. This net performance will be published in the public domain and also used to determine Market Share Shift activity and when judging provider performance against the contractual minimum performance requirements.

Managing the supply chain

The flow of funds to subcontractors

[Paragraph 129] We welcome in principle the increased emphasis that the Work Programme model places on outcome-based payments. However, we acknowledge witnesses' concerns about the risk to the financial viability of smaller, specialist subcontractors if prime contractors do not pass on sufficient upfront funding. DWP should be proactive in reminding prime contractors that a key aspect of their role in the Work Programme is to bear financial risk, rather than passing it on to subcontractors unfairly or disproportionately. The structure of prime contractors' payments to subcontractors should reflect this and, in managing its contracts with prime contractors, DWP must act to ensure that this is the case.

The contractual requirement for prime providers to achieve Merlin Standard accreditation will ensure smaller subcontractors are fairly treated within these arrangements.

However, prime providers are free to create and manage their own supply chains. It is for subcontractors to negotiate with primes a contract that ensures that financial risk is not passed down the supply chain inappropriately. The payment model has been designed so that providers will always want to maximise performance, so it will be in their interest to ensure that their subcontractors are able to deliver support effectively without the added burden of increased financial risk.

Managing relationships between prime contractors and subcontractors

[Paragraph 139] We welcome the creation of the Merlin Standard as a significant step in helping to promote fairness in the supply chain. However, we share the concerns of some witnesses that it still lacks sufficient “teeth”. We recommend that DWP establishes robust sanctioning arrangements and takes steps to make the Merlin compliance measures more precise and objective. DWP must also demonstrate how the arbitration process will be truly independent and impartial.

Prime providers must ensure that all sub-contractual relationships adhere to the DWP Code of Conduct and that they attain the Merlin Standard. Providers will be assessed against the Merlin Standard at stages over the life of the contract. The Merlin Standard has contractual force so DWP has the power to end contracts with providers if they are found to be not treating subcontractors in their supply chains fairly.

[Paragraph 141] The success of the Work Programme will depend on effective relationships between prime contractors and their networks of subcontractors. Contracting arrangements will need to be framed so as to ensure not only that subcontractors are fairly managed, but also that prime contractors are able to hold subcontractors to account for poor performance and, where necessary, terminate agreements with subcontractors who are not performing to agreed standards. We request further details from the Government, in response to this report, on how contracts will support prime contractors in managing poor performance among subcontractors.

Please refer to response to paragraph 43.

Client flows

Eligibility for the Work Programme

[Paragraph 147] We believe that the Government should quantify and publish on an annual basis the numbers of working age people who will not qualify for help under the Work Programme because they are not in receipt of a qualifying benefit.

All ESA and JSA claimants can access the Work Programme at the appropriate stage in their claim. In England eligibility has been extended to all working age benefit claimants. Claimants who are not eligible to access the Work Programme may receive support from Jobcentre Plus. Additionally, Work Choice will help people with more severe disabilities or complex needs for whom mainstream provision is not suitable.

The Government regularly publishes data regarding the number of people claiming working age benefits, and data regarding the total working age population is already published by the Office for National Statistics.

Provision for former Incapacity Benefit claimants

[Paragraph 152] We are concerned about the prospects for former Incapacity Benefit claimants in the Employment and Support Allowance (ESA) Work Related Activity Group (WRAG) who are assessed as not yet ready to work and who will no longer

receive contributory ESA payments after one year. We recommend that the Government clarify the arrangements for the reassessment of individuals in the ESA WRAG who have been assessed as not fit for work within three to six months. The Government should set out how frequently these individuals will be reassessed and what the arrangements are for reassessment.

ESA claimants in the Work Related Activity Group (WRAG) have their repeat Work Capability Assessments (WCA) conducted at a date determined by the healthcare professional during their WCA. Where someone is claiming contributory ESA and their 12-month entitlement expires before their repeat WCA is due, they can still make a claim for income-related ESA. If they are eligible for ESA (income related) they will not need to undertake another WCA until the date of their repeat WCA, which was set while they were claiming ESA (contributions based).

[Paragraph 158] The role of personal advisers in provider organisations will be crucial in the effective delivery of the Work Programme. DWP must ensure as part of the performance monitoring process that prime contractors have a sufficient number of staff trained to meet the varying needs of the different client groups, including the large numbers of former Incapacity Benefit claimants who will join the programme.

When awarding contracts, the Department assessed providers' capacity and capability (including staff arrangements) to deliver a high quality, personalised service to all participants.

In addition, the Department is confident that the payment model has been designed so that providers will always want to maximise performance, so it will be in their interest to ensure that their staff and their subcontractors' staff are appropriately trained.

Overall Work Programme client flows

[Paragraph 163] We recommend that DWP develop accurate and transparent tools to estimate the anticipated numbers of Work Programme participants, and provide quarterly assessments of caseload and regional flows to inform prime contractors and the supply chain. We also recommend that DWP clarifies how unemployment forecasts from the Office for Budget Responsibility will inform the estimates of caseload flows.

The Department was clear in the ITT documentation how the volumes estimates for the Work Programme have been derived and their link to the wider Office for Budget Responsibility (OBR) unemployment forecast. As part of the implementation process the Department has set up a series of meetings to discuss the volumes estimates with providers. As part of that the Department has set out what information is available to help providers examine local labour market conditions as well as national flows and caseload data. In addition the Department has set out a process for regular updates to the national Work Programme estimates based linked to the periodic OBR forecast updates

Job availability

[Paragraph 169] While the Government has a role, we believe that prime contractors should play a more active part in working with employers to persuade them of the need to be more open in their recruitment policies and more positive in employing someone with a disability.

The Department supports the Committee's view and is encouraging providers to engage with employers in their area to help a range of people back to work, including disabled people and those with health conditions. The Government has built wide support for this agenda amongst a range of employers and is now taking steps to further extend positive employer commitments; through national employer campaigns such as Employ-Ability, Hire Vision and the Recruitment That Works initiative, which is delivered by the Jobcentre Plus Disability Service Development Team.

The role of Jobcentre Plus

Avoiding duplication between the supply chain and Jobcentre Plus

[Paragraph 175] There is some potential for confusion among Work Programme clients, who will be required to report to both their Work Programme provider and Jobcentre Plus (JCP). We are anxious to ensure that a client's requirement to report to JCP does not conflict with their programme of work-related activity on the Work Programme. We recommend that the Government consider introducing some flexibility where appropriate in relation to the requirement on jobseekers to sign on fortnightly at the Jobcentre. However, the sanctioning decision in relation to Work Programme participants who fail to attend the programme as required should remain with JCP.

The Department recognises the Committee's concern regarding the ongoing programme of fortnightly jobsearch reviews for JSA claimants whilst they are engaged in a programme of work-related activity with a Work Programme provider. However, it is also important that there is a mechanism that allows us to establish that a claimant remains entitled to receive JSA, i.e. is actively seeking and available for employment, whilst undertaking any work-related activity with the Work Programme provider.

Regular contact between JSA claimants and Jobcentre Plus also provides an opportunity to alert Jobcentre Plus to any concerns the claimant has regarding their experience with the Work Programme provider and – as appropriate – to signpost claimants to the formal provider complaints procedures.

Jobcentre Plus advisers will ensure that these ongoing contact requirements are clear to the claimant before they move across to the Work Programme. Work Programme provider guidance also clearly sets out this ongoing requirement and requires providers to support it. Guidance also sets out the role providers have in alerting Jobcentre Plus to any conditionality concerns and supportive activity required to enforce conditionality. As the Committee has highlighted, it will be for Jobcentre Plus to apply appropriate sanctions if a claimant chooses not to comply.

Support for jobseekers who are not eligible for the Work Programme

[Paragraph 179] We understand the rationale of focusing employment support on those jobseekers who are claiming benefits. However, DWP must ensure that an appropriate level of employment support remains available to all jobseekers, including those not eligible for the Work Programme. The role of Jobcentre Plus will be central to the effectiveness of the Work Programme and to assisting those not eligible for the programme.

Please refer to response to paragraph 147.

[Paragraph 180] We recommend that, in its response to this report, DWP set out how it intends to maintain support through Jobcentre Plus, both for Work Programme participants and other jobseekers, in the context of the anticipated headcount reductions and rationalisation of Jobcentre Plus offices. We also request that DWP explain the contingencies it plans to put in place to adjust the headcount reductions should unemployment levels prove higher or lower than forecast.

Jobcentre Plus will contribute to achieving the Department's target level of savings while delivering against its two priority outcomes of quickly moving people off benefits and into jobs; and reducing fraud and error losses by making accurate and timely benefit payments.

Jobcentre Plus will do this by working more efficiently: making much more use of its online services (e.g. Jobseeker's Allowance (JSA) online); implementing ideas from its staff to improve processes and productivity; making savings in back office and support functions; and enabling personal advisers to work more flexibly to provide personalised support to claimants. Jobcentre Plus will work more closely with external providers under the new Work Programme.

Jobcentre Plus keeps its workloads and headcount under regular review and these are reconsidered formally every quarter. These reviews reflect actual workforce movements, eg from turnover, new requirements, policy changes, and (where significant) changes to volumes of benefit claims. The Jobcentre Plus Executive also regularly reviews contingency plans in the event of higher than expected workload changes.

The transition to the Work Programme

Extension of previous employment programmes

[Paragraph 188] We welcome the extension of mainstream employment support from April until June 2011, but regret that the Government did not provide detailed financial information in relation to the transitional arrangements for the Work Programme at an earlier stage. Clearer and more timely information would have given providers the opportunity to plan effectively for the transition to the Work Programme, including avoiding the risk of any unnecessary staff redundancies.

The Department's priorities were to ensure nobody was left unsupported during the transition and to get the Work Programme in place as soon as possible while maintaining responsible stewardship of the welfare to work market.

Given the difficulties of negotiating the winding down of hundreds of existing contracts with many different providers, the Department has always been as clear as possible, as soon as possible with providers about the arrangements for the transition to the Work Programme.

[Paragraph 189] Despite the Government's welcome decision to extend existing contracts there will inevitably be some disruption to, and gaps in, provision for claimants as existing programmes are wound down before capacity is built up to deliver the Work Programme in full. The Government needs to ensure that claimants are not disadvantaged as they are moved from one programme to another.

The Department was clear that all claimants would be properly supported during the transition to the Work Programme and is confident that this has been the case. Existing contracts for support for JSA claimants will continue to run alongside new contracts for up to three months ensuring claimants already on these programmes get at least three months provision. Those who do not complete their existing provision will be able to volunteer for early access to the Work Programme.

Termination of programmes for disabled people

[Paragraph 192] We request that DWP clarifies how people with severe disabilities who require extra support to access work will be referred to Work Choice once the Work Programme is in place.

Referral to Work Choice will be via the Disability Employment Advisor in Jobcentre Plus, although statutory referral organisations such as Local Authorities and Primary Care Trusts can in some circumstances refer people to the provision.

Work Programme providers who consider a participant to need the support offered through Work Choice will be able to liaise with Jobcentre Plus to discuss whether or not transfer to Work Choice is appropriate for the individual.

[Paragraph 194] We note the findings of the National Audit Office and Public Accounts Committee in relation to Pathways to Work, and that it was the previous Government's intention to close the service in April 2011. However, we are concerned that employment services for disabled people were the only services that were excluded from the list of programmes that were extended until June 2011.

Although the support provided through Pathways to Work was welcomed by participants, overall, the programme was not cost effective in helping people back to work. We therefore targeted our extensions specifically towards programmes that would effectively support our claimants to gain employment.

Since then we have put in place a whole new system of support from both Jobcentre Plus and Work Programme providers. These new arrangements offer more personalised and flexible support than was previously available.

[Paragraph 195] We are concerned that Jobcentre Plus may not have the resources to offer adequate alternative provision to meet the employment needs of disabled people between April 2011 and the start of the Work Programme, particularly as the

Government has already begun the full scale migration of people from Incapacity Benefit to Employment and Support Allowance, resulting in an increase in the number of claimants with a history of ill health requiring specialist support. We request that, in response to this report, the Government sets out the steps it has taken to ensure that Incapacity Benefit claimants have not suffered a diminution of employment support provision in the period between the closure of targeted programmes and the roll out of the Work Programme.

In April 2011 the Government put in place a new Jobcentre Plus based support regime for those with health conditions and disabilities, including those in receipt of incapacity benefits. This offered a much more flexible, tailored approach to support based on individual needs, not the rigid system of work focussed interviews delivered through Pathways to Work.

The application of TUPE regulations

[Paragraph 199] We note the difference in view between the Government and providers on the applicability of TUPE regulations to the transition to the Work Programme from Pathways to Work and the concerns of witnesses that the Government did not take sufficient steps to clarify the position. We recommend that the Government engage fully with the supply chain and clearly communicate its position in relation to TUPE arrangements insofar as these relate directly to DWP programmes.

The Department clearly stated in the ITT that provider to provider TUPE was likely to apply to the Work Programme and restated this position to all preferred Work Programme suppliers. All outgoing providers delivering legacy provision were given details of the Work Programme prime providers and the Department has worked with both outgoing and incoming suppliers to ensure TUPE data has been shared with all relevant parties.

TUPE is a legal requirement. It is not for the Department to make a definitive judgement as to whether provider to provider TUPE applies or not and the Department expects suppliers to seek their own legal advice and act appropriately on that advice. However, this has been a complex and difficult transition and the Department and Work Programme prime providers have worked hard towards acceptable solutions. The Department set up a mailbox for suppliers to raise any TUPE enquiries (wp.hr-tupeissues@dwp.gsi.gov.uk) and has facilitated meetings between outgoing and incoming suppliers to reach agreement on TUPE and how they take forward consultations. The Department has also worked with ERSA to ensure suppliers were aware of their TUPE obligations.