

**Version 1.0**

**AGREEMENT  
BETWEEN  
DEPARTMENT FOR WORK AND PENSIONS  
AND  
THE SCOTTISH GOVERNMENT  
IN RESPECT OF  
FAIR START SCOTLAND**

<b>Key personnel</b>	<b>Name</b>	<b>Role</b>
		[REDACTED]
		[REDACTED]
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## FAIR START SCOTLAND

### I. PARTIES

1. This Agreement is entered into between the Department for Work and Pensions of Caxton House, Tothill Street, London, SW1H 9NA (“**DWP**”) and the Scottish Government of 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU (“**SG**”).

### II. SCOPE

2. This Agreement sets out the provisions of the relationship between the DWP and the SG in relation only to the delivery by the DWP to the SG of certain services (the “**Services**”) which are required for the SG’s delivery of their Fair Start Scotland (FSS) service. This service will replace the existing SG Work First and Work Able Programmes in Scotland for new referrals from 13<sup>th</sup> March 2018. The Services are as more fully described in **Annex 1** (Outline of Services) [REDACTED] which constitutes the “**Services Specification**”. In addition to the services the DWP shall carry out some Business As Usual (BAU) processes that the DWP JCP work coaches will undertake for FSS including undertaking an eligibility check for customers who have been referred from the SG’s Service Providers via third party organisations. This work forms part of the working arrangements set out in **Annex 2** (FSS Service Working Arrangements) [REDACTED].

### III. DURATION

3. This Agreement shall become effective on the FSS Commencement Date and shall remain in force until the last customer referred by the DWP to the SG has completed their participation in the FSS service or until 31st March 2024 whichever is the earlier. (the “**Term**”). The Services shall commence on the FSS Commencement Date, of 13<sup>th</sup> March 2018 continuing during the timeframes set out in **Annex 1** (Outline of Services). The FSS service will go-live 3<sup>rd</sup> April 2018. This Agreement may be varied, or the Term extended, by mutual written agreement of both parties at any time during the Term under the arrangements at section VII (Change and Variation to the Agreement).

### IV. LEGAL EFFECT

4. This Agreement is a formal and mutually agreed statement of the relationship between the DWP and the SG in respect of the delivery of the Services by DWP and the working arrangements. This Agreement is neither intended to constitute a legally enforceable contract nor create any rights or obligations which are legally enforceable, but both the DWP and the SG shall act in accordance with the terms of this Agreement.

### V. DERIVATION

5. This Agreement shall be read in conjunction with:

<b>Document</b>	<b>Version/Date</b>
Memorandum of Understanding between Scottish Government and The Department for Work and Pensions (the “ <b>DWP/SG Single MOU</b> ”)	Published 25 October 2016 (as updated from time to time by DWP and SG)
Concordat between DWP and Scottish Government	Published 1 <sup>st</sup> July 2010
Any applicable Data Sharing Agreements which may from time to time form annexes to the DWP/SG Single MOU	
The agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework	Published 26 February 2016 (as updated from time to time by DWP and SG)
Scottish Devolution Programme Financial Commissioning Process	This document can be provided by the DWP Scottish Devolution Programme Management Office
Communications and Partnership Working Framework	
Devolved Employment Services: DWP/SG Joint Operational Framework	
Data Protection Act 1998	N/A
General Data Protection Regulation 2018	Effective 25 May 2018
Scotland Act 2016	N/A

## VI. PURPOSE

6. The purpose of this Agreement is to define the respective roles and responsibilities of the parties to this Agreement, as relate to:
  - 6.1 the Services;
  - 6.2 arrangements made between the DWP and the SG in relation to payment for the Services;
  - 6.3 the working arrangements and relationship between the DWP and the SG in relation to the services, including management and reporting arrangements;

- 6.4 the terms of the Joint Operational Framework; and
  - 6.5 compliance with applicable law including requirements such as the Data Protection Act 1998.
7. For the purposes of clarification **Annex 2** sets down an outline of the day to day working arrangements between the parties and **Annex 3** (Customer Journey - High Level Process Map) **[REDACTED]** demonstrates the full end to end customer journey, including those steps which will be delivered by the SG and the SG Service Providers, as well as the DWP business as usual functions and the Services provided by the DWP.

**VII. CHANGE AND VARIATION**

- 8. Either party may seek variations to this Agreement.
- 9. Any proposals for variation shall be considered as soon as reasonably practicable. Variations must be agreed by both parties and no work will be undertaken until agreement is reached on how the work will be funded. Where legislative, urgent or major changes are required each party will do its utmost to give the other reasonable notice and to respond as quickly as possible but this will depend on resource availability and relevant governance processes. Any requirement for a variation shall be subject to the Change Control Procedure. (**Annex 4 – Change Control Procedure**) **[REDACTED]**
- 10. Any mutually agreed changes or amendments, will be dealt with through normal means of communications via the single point of contacts (“**SPoCs**”) and agreed through the Joint Operational Performance Group (JOPG). As at the FSS Commencement Date, the SPoCs for each party are as follows:

<b>SG SPoC (SG Employment Services Programme)</b>	<b>DWP SPoC (OED)</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>

Where a dispute arises about change proposals the process in section IX (Disputes) should be followed.

- 11. In addition any major changes to this Agreement, such as a change to the core service design or policy intent, will be discussed by the Senior Joint Operational Group for Employability (SJOG) under the Joint Operational Framework and if required escalated by the signatories of this Agreement (or their successors) via Joint Senior Officials Group (“**JSOG**”) and/or respective Ministers via the Joint Ministerial Working Group on Welfare (“**JMWGW**”) for their agreement as necessary.
- 12. The DWP and the SG will implement any agreed delivery and/or operational changes covered by this Agreement at the earliest opportunity working through the appropriate channels.

13. Any divergences agreed by the parties shall be detailed in the Change Notes and added to **Annex 5** (Divergences) [REDACTED].
14. Both parties to this Agreement are expected to make every effort to ensure that the arrangements envisaged by such changes are operated amicably, with minimum disruption to work processes.

## VIII. END OF AGREEMENT

15. Discussions on the end of this agreement, or extension of this Agreement, will commence no later than six (6) months before the DWP referrals end on 2 April 2021.

## IX. DISPUTES

16. Where a dispute arises about the operation of this Agreement or any variation or interpretation of this Agreement, both parties will seek to resolve it informally through the SPoCs within thirty (30) days of the dispute arising. Any escalation shall follow the route set out in the Joint Operational Framework. SPoCs may subsequently refer the matter to relevant Directors in each organisation namely Mary Pattison for the DWP and Dominic Munro for the SG (or their respective successors). The relevant Directors are to be copied into all escalation correspondence. However, if this does not resolve the issue, each party may escalate the matter to the JSOG to agree a solution. In exceptional circumstances, where a dispute cannot be resolved informally, at Director level or by JSOG, it may be escalated to the JMWGW or individual Ministers. The appropriate SPoCs will, at all times, keep each other informed of any planned escalation, prior to the escalation happening.

17. This is in line with Section 5 (Escalation) of the DWP / SG Single MOU.

## X. PRINCIPLES

18. The DWP and the SG shall work in partnership to ensure that the Services are delivered in accordance with the terms of this Agreement. To effect the above:
  - 18.1 The DWP will operate a business as usual function in delivering the referrals on behalf of the SG. This means it will engage with customers in line with how it is currently funded and not carry out additional work with customers over and above this whilst incorporating and delivering the Services on behalf of the SG. Both parties will in addition seek continuous improvements and innovation in delivery standards and value for money, including sharing lessons from delivery of the referral services;
  - 18.2 The SG shall share lessons from delivery of the FSS service with the DWP in so far as relevant to the delivery of the referral services. The SG will take a key role in managing the SG Service Provider performance and will be responsive to feedback from the DWP in taking this forward; and



- 18.3 Both parties shall act in accordance with the principles set out in the Joint Operational Framework and will work in a practical way in regards to reaching mutual agreements on any issues that may arise.

## XI. ROLES AND RESPONSIBILITIES

19. The SG shall, as set out in this Agreement:

- 19.1 complete any dependencies which are required for the DWP to perform the Services as noted in **Annex 6** (the “Dependencies”) [REDACTED];
- 19.2 be responsible for payment of the Services in accordance with section XIII (Financial Arrangements);
- 19.3 comply with its obligations under applicable law, including the Scotland Act 2016, the Data Protection Act 1998 and the General Data Protection Regulation 2018 in relation to personal data which it processes for the purposes of this Agreement;
- 19.4 inform the DWP immediately if it becomes aware of any deficiency in the quality of Services delivered under this Agreement;
- 19.5 inform the DWP immediately if there are any issues with the SG Service Providers appointed by the SG to deliver the FSS service which would impact on the delivery of the Services or the working arrangements agreed between the parties as set out in **Annex 2** (FSS Service Working Arrangements); and
- 19.6 work in partnership with the DWP in respect of any potential changes to the FSS service, as may affect the Services.

20. Both parties acknowledge that the SG shall retain responsibility for the delivery of the FSS service.

21. The DWP shall, as set out in this Agreement:

- 21.1 deliver the Services in accordance with the terms of this Agreement;
- 21.2 comply with its obligations under applicable law, including the Data Protection Act 1998 and the General Data Protection Regulation 2018 in relation to personal data which is processed for the purposes of the Services;
- 21.3 inform the SG immediately if it becomes aware of any deficiency in the quality of Services delivered under this Agreement and use its reasonable endeavours to resolve such problems where it is reasonable and practical to do so within a period of thirty (30) days (subject to section XXII (Communications and Information Management)); and
- 21.4 work in partnership with the SG in respect of any potential changes to Fair Start Scotland that may impact on or require changes to the Services.

## **XII. SERVICE DESIGN AND DELIVERY**

22. The DWP shall deliver the Services:

- 22.1 in accordance with the Service Delivery Standards set out in **Annex 7** (Service Delivery Standards) **[REDACTED]**;
- 22.2 as meets the requirements of the Services Specification set out in **Annex 1**; and
- 22.3 in accordance with **Annex 8** (IT Changes Pictorial View) **[REDACTED]**.

## **XIII. FINANCIAL ARRANGEMENTS**

23. **[REDACTED]**

## **XIV. MANAGEMENT REVIEW**

25. The Joint Operational Framework sets out the arrangements for engagement between the DWP and the SG, including discussion on performance, delivery issues and risks, shall follow the agreed framework for meetings as set out below:

- 25.1 SJOG, a senior group, chaired at Deputy Director level with key senior representatives from the DWP and the SG. This will meet initially monthly to assess the overall progress of FSS. The working relationship between the DWP and the SG and be a point of escalation for operational issues which cannot be resolved quickly or at a lower level;
- 25.2 JOPG, an operational group, chaired at the appropriate level which will meet monthly to assess detailed business as usual issues including the operational performance of FSS and referral patterns. This group will receive prompt impact analysis of any actions proposed against the totality of change occurring across both the DWP and the SG to inform decisions.

26. These meetings will discuss the issues as stipulated in the SG/DWP Operational Performance group's terms of reference and shall be based on an open and honest relationship with issues/risks expected to be aired at the earliest possible opportunity so that they can be addressed.

## **XV. MANAGEMENT INFORMATION ("MI")**

27. The parties have agreed that at the commencement of this Agreement no management information will be supplied to either party.

## **XVI. AUDIT ARRANGEMENTS**

28. Both parties shall carry out their own audit regime of the Services to safeguard their assets and interests from losses of all kinds including those arising from corruption, fraud or irregularity. Both parties agree upon any reasonable request from the other party, to a reciprocal exchange of information and documentation to provide appropriate assurances to cover the Term.

## **XVII. EVALUATION**

29. The SG will be responsible for arranging formal evaluation of the FSS service.

## **XVIII. INFORMATION**

### **Data Processing**

30. In performing the Services on behalf of the SG, the DWP may act as a data processor and the SG shall act as a data controller in relation to the processing of personal data (as the terms “data controller” and “data processor” are defined by the Data Protection Act 1998, the General Data Protection Regulation 2018 or any replacement law).
31. The foregoing is without prejudice to the DWP acting as a data controller in its own right and as a data controller in common with the SG in respect of some or all of the same personal data.
32. The DWP and the SG will cooperate to ensure that all data subjects are provided with the necessary information to make the processing of their personal data fair and lawful.
33. The SG will prepare a Privacy Impact Assessment for any new processing of personal data by the SG under this Agreement.
34. Further details of the data controller and data processor roles and responsibilities of the SG and the DWP in relation to the processing of personal data are set out in the Fair Start Scotland Data Sharing / Data Processing Agreement.

### **Freedom of Information requests, Parliamentary Questions, Subject Action Requests, Ministerial Correspondence and ‘Treat Official’ Correspondence**

35. The parties agree to notify one another immediately upon receipt of any such request for information and shall direct such notification to the SPoCs set out below. It is anticipated that the vast majority of these requests will be handled by the SG. To ensure requests are handled timeously the parties shall discuss and agree who takes responsibility for what if required.
36. Both parties shall be sighted on all responses where appropriate. In any case where the response covers sensitive information the parties agree to advise one another that a response has been issued and provide a summary of the response to the other party.

<b>DWP FOI SAR SPoC</b>	<b>SG FOI SAR SPoC</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>

37. Thereafter each party will follow their own processes and comply with their obligations for handling such requests. If either party does not hold the information requested or only holds the information in part, that party is to inform the requester of this and refer the requester to the appropriate government body using the relevant SPoC as specified above.

**XIX. SECURITY**

38. As neither party requires direct access to one another's systems, there is no requirement for Security accreditation.

**XX. BRANDING AND MARKETING**

39. The referrals, whether delivered by the DWP or subcontractors to the DWP, will form part of the FSS service.

40. The SG shall develop marketing materials for FSS which recognise the DWP as a key partner. The SG will consult the DWP during the development of specific materials for the DWP and will deliver to the DWP to use in the promotion of the FSS programme.

41. The SG shall share information with the DWP on the campaign timetable to enable the DWP to take into account the impact on their BAU.

**XXI. STAKEHOLDER MANAGEMENT**

42. Subject to paragraph 44 SG will retain responsibility for strategic engagement with its stakeholders in relation to the FSS service and the Services.

43. Subject to paragraph 44 the DWP will retain responsibility for strategic engagement with its stakeholders in relation to the delivery of the Services.

44. The DWP staff shall continue to engage with the SG Service Providers at a local level to ensure a constructive relationship between the services providers and the DWP staff in order to support the customer journey.

**XXII. COMMUNICATIONS AND INFORMATION MANAGEMENT**

45. The SG will have sole responsibility for the issuing of any publicity, campaigns, or communications in relation to the FSS service.

46. The DWP shall as soon as reasonably possible inform the SG of any requests for information received from the media that relate to the Services / the FSS service, and will

only respond to any such requests following consultation with the SG in accordance with any reasonable instructions provided by the SG.

47. The DWP will not issue any media communications relating to the Services / the FSS service, including press releases, interviews and publications without prior consultation with the SG.
48. The DWP shall take reasonable steps to ensure that their employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with this approach.
49. It is the responsibility of each party to effectively manage communications in relation to the Services. However, the DWP and the SG will strive to work together as much as possible so that on occasions when consistency of message is key, an aligned and coordinated approach is taken forward to protect customer service as well as both governments' reputation for accuracy and competency.
50. The SG and UK Government may take different approaches to employability policy. There is a need to provide consistent communications for service users and service providers about what will happen. Both parties will work together to develop and agree on an aligned communications approach that will look to put the customer first.
51. The parties will comply with the Communications and Partnership Working Framework which has been agreed by the DWP and the SG acting through the SG employment services programme. Each party will have officials responsible for the management of the same, including the associated plans/activities as set down in the Joint Operational Framework for Employability which sets up two Groups namely a senior group and an operational group as detailed in paragraphs 25.1 and 25.2

The SG and the DWP agree this framework should also help identify opportunities that would improve the customer experience of services in Scotland and ensure these are coherent, accessible and transparent to people who need to access them.

However, the escalation routes detailed in this Agreement will be maintained as required.

### **Communications (including complaints)**

52. Communications will be dealt with in accordance with the DWP Operational Guidance for the referrals as agreed by the SG and the DWP (and as updated from time to time with the agreement of both parties). [REDACTED] Complaints will be dealt with in accordance with the processes set out in **Annex 9 [REDACTED]** Complaints. Both the SG and the DWP agree to inform the other immediately upon receipt of a complaint which relates, wholly or in part, to a service provided by the other party. The parties agree to keep the other regularly informed on progress of all joint complaints relating to FSS service. Where appropriate the parties agree to issue a joint response.

### **Confidentiality**

53. The DWP and the SG will respect the confidentiality of all data received from each other. Where the DWP or the SG provides data to the other they will indicate the appropriate status and any restrictions on how the data is to be handled. Disclosure of data will be subject to legal and other provisions relating to freedom of information and data protection in accordance with this Agreement and the Fair Start Scotland Data Controller / Data Processor Agreement.

### **XXIII. INTELLECTUAL PROPERTY**

54. The SG has ownership in the name “Fair Start Scotland” and the SG grants the DWP (and the DWP subcontractors) permission to use that name only in so far as required for the performances of the services for the Term. This licence shall automatically terminate upon the cessation of the provision of the services by the DWP.

### **XXIV. FRAUD, COMPLIANCE AND LIABILITY**

55. Both parties will inform each other without delay, about any suspected frauds, irregularities or breaches of obligations set out in this Agreement in relation to the Services. With effect from the FSS Commencement Date, suspected fraud by a SG Service Provider will be investigated by the SG and action to recover any sums paid will be taken by the SG.
56. Neither party shall be liable for any loss or damage incurred by the other party, unless that loss or damage is incurred as a direct result of the negligence or wilful default of the other party or its employees, sub-contractors or agents.
57. Nothing in this Agreement excludes or otherwise limits the liability of either party for:
- 57.1 death or personal injury caused by its negligence or the negligence of its employees, contractors or agents; or
  - 57.2 fraud or fraudulent misrepresentation; or
  - 57.3 any other liability that cannot be excluded or limited by applicable law.

### **XXV. BUSINESS CONTIINUITY**

58. Both parties have provided details of, and will implement and maintain, business contingency plans. Both DWP and SG have BAU business continuity arrangements in place which outline the key roles and the escalation and invocation procedures.

### **XXVI. TECHNOLOGY CHANGES**

59. [REDACTED]

## DEFINITIONS AND INTERPRETATION

62. In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings, set out in **Annex 10 [REDACTED]** [(Definitions and Interpretation)].
63. In this Agreement, unless the context otherwise requires the rules of interpretation set out in **Annex 10** (Definitions and Interpretation) shall apply.



IN WITNESS WHEREOF these presents consisting of this and the 16 preceding pages together with the Appendices have been executed by the parties as follows:

**Signed by:**

**Print name: MARY PATTISON**

**Date: 06.03.18**

Senior Responsible Officer, Scottish Devolution Programme, Department for Work and Pensions

**Signed by:**

**Print name: DENISE HORSFALL**

**Date: 07.03.18**

Area Director, Scotland, Department for Work and Pensions

**Signed by:**

**Print name: DOMINIC MUNRO**

**Date:**

A duly authorised officer for and on behalf of the Scottish Government

**These are the Annexes referred to in the foregoing Agreement between the DWP and the SG**

**Annex 1 – Outline of Services – To be read in conjunction with Annex 3 High Level Process Map (Customer Journey) [REDACTED]**

**Annex 2 – FSS Service Working Arrangements [REDACTED]**

**Annex 3 – Customer Journey – HIGH LEVEL PROCESS MAP [REDACTED]**

**Annex 4 – Change Control Procedure [REDACTED]**

**Annex 5 – Divergences [REDACTED]**

**Annex 6 – Dependencies [REDACTED]**

**Annex 7 – Service Delivery Standards [REDACTED]**

**Annex 8 – IT Changes Pictorial View (To Be) [REDACTED]**

**Annex 9 – Complaints [REDACTED]**

**Annex 10 – Definitions and Interpretation [REDACTED]**