

**Final  
Business and Regulatory Impact Assessment**

**Fair Start Scotland (FSS)  
April 2018-March 2021**

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**Title of Proposal**

**Fair Start Scotland (FSS) April 2018-March 2021**

**Purpose and intended effect**

Employability plays an essential role in delivering the Scottish Government's aims of tackling poverty, supporting inclusive growth, promoting social justice and creating a fair and prosperous Scotland. The Scottish Government is committed to supporting those furthest from the labour market and those at risk of long term unemployment into work. From 3 April 2018, Scotland's new, devolved employability service, Fair Start Scotland, will develop this Scottish approach to employability, based on the principles of:-

- Delivery of a flexible 'whole person' approach;
- Services that are responsive to those with high needs;
- A drive towards real jobs;
- Services designed and delivered in partnership;
- Services designed nationally but adapted and delivered locally; and
- Contracts that combine payment by job outcome and progression towards work.

**SG Policy aims**

Fair Start Scotland aims to:-

1. Design and deliver a high quality service that maximises delivery of real and sustained job outcomes, to targeted individuals, treating them with fairness, dignity and respect.
2. Focus support on those further from the labour market for who work is a realistic prospect.
3. Establish and transition to a distinctly Scottish Service that creates a strong platform for future employability services.
4. A nationally consistent service, delivered locally and utilising private, public and third sector capabilities.
5. Integrate and align services in order to maximise value for money.

Fair Start Scotland will be a voluntary service and we aim to support a minimum of 38,000 starts. The majority of participants will be those who are furthest from the labour market.

## **Rationale for Government intervention**

The Scotland Act 2016, section 31, provides the Scottish Parliament with the legislative framework within which to establish employment schemes. Under this Act, the Scottish Parliament will be able to make provision for arrangements to provide facilities, support and services to help people into work.

This includes assisting those at risk of becoming long-term unemployed who are receiving UK benefits such as Universal Credit (“UC”); helping disabled people into work; and supporting schemes which seek to help employers find suitable employees. Following Royal Assent of the Act in April 2016, the powers set out in section 31 commenced on 5 September 2016.

The Scottish Government has put in place transitional support arrangements to replace previous DWP programmes. These services stopped taking referrals on 9 March 2018.

Employability support to help those further away from the Labour Market into jobs can make a significant contribution to the Scottish Government’s wider ambitions to make Scotland a better place to live and a more prosperous and successful country.

These ambitions are sets out in the National Performance Framework:

<http://www.gov.scot/About/Performance/scotPerforms/outcome>

In line with the principles of Scotland’s Economic Strategy and Scotland’s Labour Market Strategy, by helping more people into work, Fair Start Scotland will contribute to our ambitions for inclusive growth while also helping to tackle wider skills and labour shortages while treating participants with Dignity, Fairness and Respect.

## **Consultation;**

We have discussed Fair Start Scotland with a wide range of Scottish and UK Government and agency interests, including the Department of Work and Pensions, Skills Development Scotland, Scottish Government; Procurement, Legal Services, Analytical Services, Health, Equalities, Justice and Economy teams.

Implementation of Fair Start Scotland was overseen by a Programme Board and influenced by a wider Stakeholder Advisory Group.

## **Public and Business Consultation**

From July to October 2015, the Scottish Government undertook an extensive consultation. User and stakeholder engagement was sought from more than 70 events organised by groups throughout Scotland. The consultation was closed to respondents on 9 October 2015.

Equality groups and a range of other organisations participated in the consultative approach and contributed to the events held throughout Scotland. Poverty Action Scotland, Close the Gap Scotland, Scottish Refugee Council, Capability Scotland, RNIB, One Parent Families Scotland were among those represented.

Specific discussions with employers were included as part of this consultation process and existing and prospective training providers also attended the events, along with representation from other third sector areas such as Scottish Council for Voluntary Organisations, Scottish Union for Supported Employment, CEMVO (Council of Ethnic Minority Voluntary Organisation and Health Scotland)

A total of 215 responses to the consultation were received and then independently analysed by Rocket Science, an organisation offering consultancy and evaluation services with particular expertise in employability and training. The report, published on the Employability in Scotland website, can be accessed here:

[http://www.employabilityinscotland.com/media/521504/creating\\_a\\_fairer\\_scotland\\_-\\_employability\\_support\\_-\\_analysis\\_of\\_responses.pdf](http://www.employabilityinscotland.com/media/521504/creating_a_fairer_scotland_-_employability_support_-_analysis_of_responses.pdf).

The results of this consultation form the main part of the Scottish Firms Impact Test section

Rocket Science identified six key messages from the responses that employability support should:-

- Provide a flexible, tailored, 'whole person' approach;
- Be designed and delivered in partnership; and
- Reflect a drive towards real jobs.
- Be designed nationally but adapted and delivered locally;
- Use contracts that combine payment by job outcomes and progression towards work. Overall, most respondents advocated a combination of job outcome and progression payments to ensure providers focused on employment, while recognising the milestones achieved along the way. It was felt that this would reduce 'parking and creaming' and provide greater financial stability and flexibility for providers.
- Have a separate employability programme for those with high needs.

The Scottish Government subsequently published its response to the consultation, **Creating a Fairer Scotland: A New Future for Employability Support** in Scotland, on 22 March 2016.

## **Impact on Business**

Whilst Scottish Ministers have long argued for Scotland to have full control over employment and employability powers, this has been limited by the UK Government to the services previously provided through the current Work Programme and Work Choice contracts.

Fair Start Scotland has the potential to affect a range of businesses including commercial and third sector service providers, training organisations and local authorities. A list of providers and contract package areas is available at the following link:

<http://www.employabilityinscotland.com/devolved-employment-services/employment-support-2018/>

As with any commercial procurement exercise that replaces existing contracts, Fair Start Scotland could have an impact on some businesses that provide employment support, but who were not successful in the contract award stage. For those already delivering other Government employability programmes there is a risk of a loss of revenue. However, overall employability service providers should benefit from the additional investment of funding from the Scottish Government in the devolved service.

An early aim of Fair Start Scotland was to procure a mix of private, public and third sector participation, and we encouraged bidders to establish collaborative supply chains which would spread the benefit of this investment to smaller specialist suppliers as well as lead partners.

Another key aim of Fair Start Scotland is to achieve inclusive growth, address inequalities in the labour market and provide sustained employment for those further from the labour market; such as disabled people, long term unemployed, lone parents and minority ethnic groups. Successful delivery of Fair Start Scotland will help to address skills and labour shortages in Scotland, positively impacting on businesses as they are able to fill gaps in their work force, enabling them to sustain or expand their business and revenue. More generally, if Fair Start Scotland is able to raise employment in Scotland then this should both increase income and hence spending in local economies (by those newly employed) and potentially help to raise income tax receipts through the Fiscal Framework, which could be channelled to spending on public services in Scotland with the attendant benefits.

### **Options Appraisal**

In implementing the new Scotland Act powers we considered two options:

#### **Option 1: Develop and provide adequate employability services for disabled people and those at risk of long term unemployment from 3 April 2018.**

Following Royal Assent of the Act in April 2016, the powers set out in Clause 31 commenced on 5th September 2016. SG now has a legislative duty to ensure the provision of adequate employability services for disabled people and those at risk of long term unemployment and to provide support services which lasts for at least 1 year.

The Scottish Government has made clear that it intends to fulfil its duties by introducing Fair Start Scotland from 3 April 2018 . This will replace existing one year transitional services and it is aimed at meeting SG ambitions around sustainable economic growth, inclusion, fair work and social justice

#### **Option 2: Do Nothing**

We do not introduce services to help disabled people and those at risk of long term unemployment. This was not progressed as an option as we had a legal duty to provide services and the business case demonstrated that there was a sound basis for pursuing option 1.

### **Sectors and groups affected**

- Employability Service Providers: Those organisations who deliver existing services, whether in the private, third or public sector as lead providers or local delivery chain partners.
- Private Training Providers.
- Employers and businesses looking to employ participants from the employability service to fill vacancies.
- Local Authorities, Community Planning Partnerships (CPPs) and Local Employability Partnerships.
- UK Government, in particular DWP and Job Centre Plus (JCP).
- Agencies, organisations and representative bodies who have an interest in how we support people into good quality, sustained and fair work such as Health Boards, Inclusion Scotland, Disability Agenda Scotland and Capability Scotland.

### **Benefits to Sectors and groups affected**

#### **Option 1: Develop and provide adequate employability services for disabled people and those at risk of long term unemployment from 3 April 2018.**

Fair Start Scotland will benefit a number of service providers in the third, private and public sectors by providing an additional £20m per annum, which would not have been available to the sector if these powers had not been devolved. This will create new recruitment opportunities in this sector, but it will also help to support more unemployed and disabled people back into work, helping a wider range of employers fill vacancies and ensure that those further from the labour market are able to participate in the labour market.

This is in line with the ambitions of Scotland's Labour Market Strategy, which also sets out the Scottish Government's commitment to the vision of the Fair Work Convention that by 2025, people in Scotland will have a world leading working life where fair work drives success, wellbeing and prosperity for customers, businesses, employers and society. The Fair Work Convention set out 5 principles of Fair Work: Security (including income security); respect; opportunity; fulfilment; and effective voice.

Scottish Government is committed through public contracts such as Fair Start Scotland to encourage the promotion of fair working practices for those who work on public contracts. FSS providers will be expected to be able to demonstrate how they have worked to promote fair work in Scotland, including discouraging the use of inappropriate zero hours contracts and working to help customers access living wage jobs.

#### **Option 2: Do Nothing**

The Scottish Government has a legislative duty to deliver a service. With no action, those furthest from the labour market could have significantly reduced opportunities in the labour market which would be damaging to both the individuals involved and the economy as a whole as it could hold back ambitions for inclusive economic growth.

The removal of funding from employment service delivery organisations would have a negative effect on the financial sustainability of the sector, with potential job losses and possible closure of providers businesses as a result. Their inability to deliver employment services may result in those reliant on their services being unable to access training, and pre and post-employment support. Subsequently, those groups would remain furthest from the labour market and as a consequence, it could be argued that such groups would continue to have a reliance on other public services such as health, care and justice.

## **Costs**

### **Option 1: Develop and provide adequate employability services for disabled people and those at risk of long term unemployment from 3 April 2018.**

Due to the nature of the procurement process, prospective bidders for employment services will incur costs to develop their proposals. Through the commercial process, some existing providers of transitional services (Work First Scotland and Work Able Scotland) have been successful in their bids to deliver Fair Start Scotland, however others have not. New providers have considered administrative and operational costs within the tendering process.

### **Option 2: Do Nothing**

If the devolved service had not been put into place, then far more providers would have lost business due to lower levels of investment in employability support. In addition, this approach would be detrimental to the economy and unemployed people in Scotland.

## **Scottish Firms Impact Test**

Clause 31 of the Scotland Act 2016 will primarily impact on service providers, third sector organisations and SME's associated with these programmes. The Scottish Government engaged with a wide range of bodies including COSLA and Scottish Local Authority Economic Development in setting this approach. The consultation responses have not altered the Scottish Government's overall view that there are no significant costs to businesses arising as a result of these changes being made.

## **Competition Assessment**

Clause 31 of the Scotland Act 2016 allowed Scottish Ministers to introduce certain terms and conditions and procedures for providers to follow when providing employment support services in Scotland.

When considering the impact Fair Start Scotland will have on Businesses, national Competition and Markets Authority (CMA) initial assessment guidelines have been applied;

The Public Contracts (Scotland) Regulations 2015 require Scottish Government officials to treat all potential suppliers equally and without discrimination; and act in a transparent and proportionate manner.

Following the conclusion of a stakeholder engagement exercise and feedback from interested suppliers, Ministers decided that the Service should be delivered over 9 geographical Lots, based upon clusters of Local Authority Areas. The Minister for Employability and Training endorsed the proposal.

The Scottish Government is committed to furthering the development of supported businesses in Scotland which includes actively promoting the use of Regulation 21 of the Public Contracts (Scotland) Regulations 2015. Specifically, Regulation 21 allows the contracting authority (for Fair Start Scotland this is Scottish Ministers) to reserve the right to participate in a procurement for the award of a public contract to a supported business.

Following some 'soft' market testing with relevant stakeholders, including supported businesses, the Minister for Employability and Training agreed to reserve lot West (covering the 5 Local Authority areas of East and West Dunbartonshire, East Renfrewshire, Renfrewshire and Inverclyde) for supported businesses only.

Regulation 47 (4) of The Public Contracts (Scotland) Regulations 2015 allows the contracting authority to limit the number of lots that may be awarded to one tenderer. Scottish Government officials determined that for the Fair Start Scotland service, a lot limiting approach was appropriate for the award of contracts. This approach was considered appropriate to minimise the likelihood of market monopoly and encourage involvement from third sector organisations and SMEs.

All potential suppliers were given equal opportunity to participate in the delivery of the Fair Start Scotland service. The opportunity to participate in the procurement exercise was published via Public Contracts Scotland (PCS) and the Official Journal of the European Union on the 17 March 2017.

The contract awards were made following rigorous evaluation of all tenders based on a pre-determined selection and evaluation scoring criteria set out in the invitation to tender pack published via Public Contracts Scotland (PCS) and the Official Journal of the European Union on the 17 March 2017. The Scottish Government's Procurement Team and representatives from the Fair Work, Employability and Skills directorate were responsible for evaluating all the tenders.

### **Test run of business forms**

Scottish Government procurement and service delivery teams worked collaboratively to produce the Specification/Statement of Requirements document for the Service. Procurement officials produced all other tender documents (e.g. Instructions to Tenderers; Terms and Condition (including associated Schedules); European Single Procurement Document (ESPD); Technical Response Questionnaire; and Commercial Response Form). These documents and forms were based on existing template documents and forms used for public procurement exercises.

## **Legal Aid Impact Test**

The Scottish Government Legal Services Access to Justice team has indicated that the introduction of Fair Start Scotland in April 2018 is unlikely to have any cost implications for the Legal Aid Fund.

## **Enforcement, sanctions and monitoring**

The Service Providers shall monitor and report on performance against the agreed Key Performance Indicators (KPIs) at Contract Performance Meetings. The Service Provider's performance will be assessed by Scottish Government using strategic contract management information tools to assess quality, service, delivery and cost. Monthly reporting will be required to measure the Service Provider's performance against the agreed KPIs.

Scottish Government will evaluate Fair Start Scotland on three different levels:

- Process evaluation, whereby the views of key stakeholders involved in delivery are collected to ensure that lessons are learned for the future.
- Assessment of hard outcomes, using a number of routes where possible, including using data from HMRC/DWP, from providers and/or through direct surveying of individuals.
- Exploration of softer outcomes using survey techniques, such as client satisfaction, whether they felt they had been treated with dignity and respect and any broader enhancements of their human capital.

The management information collected is important and will contribute to the information needs of the evaluation strategy.

## **Implementation and delivery plan**

Fair Start Scotland will begin delivery on 3 April 2018. Mobilisation meetings with contract providers have been taking place, with Scottish Government service delivery officials assuring that providers have the required resources and structures in place to begin delivery of the new service. Additionally, Scottish Government officials have delivered a programme of awareness events to Job Centre Managers and Work Coaches, providing detail of Fair Start Scotland and eligibility criteria. The referral strategy and Marketing strategy have been agreed with the programme board and shared with DWP.

Post Implementation reviews will be an on-going exercise with collaboration across government departments e.g. through Joint Operational Performance Groups (JOPG) with Scottish Government and DWP representation. Evaluation of the service and its delivery will be led by Office of the Chief Economic Adviser.

## **Summary and recommendation**

A key element of Fair Start Scotland was to encourage participation from public, private and third sector bodies. Scottish Government's Fair Start Scotland employment service will:

- Deliver a flexible 'whole person' approach;
- Provide a Service that is responsive to those with high needs;
- Provide a drive towards real jobs;
- Deliver Services designed and delivered in partnership;
- Be designed nationally but adapted and delivered locally;
- Provide Contracts that combine payment by job outcome and progression towards work;
- Encourage effective working relationships between DWP and providers;
- Establish the customer's willingness to engage with the service; and
- Enable a collective assessment between participant and provider on the support needs of the individual.

## **Costs and benefits**

Payments to Service Providers will depend on the actual delivery of the service and the performance offer made by successful bidders in the procurement exercise.

The budget position is set out through to 19/20. The Fiscal Framework settlement with the UK Government did not include 2020/21, although this is currently base lined at £13.8m.

Between the Outline Business Case (OBC) and the invitation to tender (ITT), volumes and performance were updated to reflect evolution of the service design, more detailed costing and refinement of the payment model.

Economic analysis for the Fair Start Scotland - Full Business Case was then undertaken taking these into account and using actual costing and performance data provided during the tendering process.

The updated analysis in the Full Business Case (FBC) demonstrates that the Preferred Option set out in the OBC continues to offer value for money when costs and Performance outcomes are taken into account following the procurement exercise.

The preferred option delivers both a positive net present value (NPV) and benefit to cost ratio (BCR):

Based on analysis, with a positive net benefit and a benefit-to-cost ratio, Fair Start Scotland will offer value for money. Following the procurement process, performance expectations and overall costs did not change significantly in comparison with the Outline Business Case, so the net social and fiscal benefits are similar and remain positive, indeed are slightly higher, due to shifts in volumes between the level of support participants will require, which have a marginal effect on assumed benefits.

## **Social Benefits**

Scottish Government believes the introduction of Fair Start Scotland will result in Social Benefits to society, they include:

- Achieving a consequent reduction in demand for other public services (including out of work benefits, healthcare, social care etc.);
- Demonstrating the Scottish Government's commitment to reducing inequality by prioritising places for the harder to help and allowing for more intensive support where needed;
- Increasing the overall cost saving to the public purse, per person supported into work, by prioritising places for the harder to help.
- Supporting participation by providers from the private (inc SME), public and third sectors;
- Ensuring service users experience a joined-up employability service, that helps tackle all their barriers to employment;
- Providing consistency of approach across the lifecycle of the service, supporting easier transition between services for children into adult services (Getting it Right for Every Child, Opportunities for All);

## **Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**



**Date: 29/03/2018**

**Minister's name: Jamie Hepburn MSP**

**Minister's title: Minister for Employability and Training**

**Scottish Government Contact point: Greig Chisholm**

Employability Division, Fair Work, Employability & Skills Directorate, 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU(Greig.Chisholm@gov.scot)



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