

Devolution of Employment Support Services Transitional Period 1 April 2017 – 31 March 2018

**Final Business and Regulatory
Impact Assessment**

May 2017

Final Business and Regulatory Impact Assessment

Title of Proposal

Devolution of Employment Support Services – Transitional Period 1 April 2017 – 31 March 2018.

Purpose and intended effect

• Background

Employability plays an essential role in delivering the Scottish Government's aims of tackling poverty, promoting inclusion and social justice and creating a fair and prosperous Scotland. From 1 April 2017, employment support services in Scotland will change. New powers to provide employment support for disabled people and those at risk of long-term unemployment will be devolved to Scotland. The current Work Programme and Work Choice schemes run by the UK Department for Work and Pensions (DWP) will end on 31 March 2017 and Scottish Government Employment services will provide support, work experience and training to help Scotland's people find work, and stay in work.

• Objective

To put in place transitional arrangements in the form of two separate programmes for the continuation of employment support for disabled people and those at risk of long term unemployment from the period 1st April 2017 to 31st March 2018:

(i) Work First Scotland - In order to maintain continuity of support to disabled people during this period of transition to new services, Scottish Ministers have agreed to enter into a Non-Competitive Action (NCA) with the three existing DWP Work Choice providers, Remploy, Shaw Trust and Momentum Skills. This NCA contract will run from April 2017-March 2018 and will provide a comparable level of support to the current Work Choice contracts. The intention is that the NCA remains largely unchanged from current Work Choice, but with some changes to define an appropriate level of service on a one year transitional basis while helping us move towards the delivery of a new employment service in Scotland from 1st April 2018.

SG Policy aims

The aim of the transitional service is to:-

- deliver high quality employment support to those with a disability who want and need help to enter and remain in the labour market;
- create a strong platform for the delivery of a new programme of support from April 2018, including testing of new delivery approaches; and
- Work in partnership with stakeholders to establish support that achieves high quality outcomes.

Volumes

We anticipate around 3,300 individuals will start the programme.

(ii) Work Able Scotland - The Scotland Act 2016 places a duty on Scottish Ministers to provide employment support to those in Scotland who are disabled or at risk of long term unemployment from the expiry of current DWP contracts in April 2017. Scottish Ministers have agreed a transitional approach to the first year of devolution – April 2017-March 2018 to maintain continuity of service for disabled people and those claiming Employment and Support Allowance subject to Work Related Activity by DWP and who want support to enter work (with work defined as 16 hours or more per week).

The nature of DWP's Work Programme and a change to the Jobcentre Plus customer journey means that in 2017 we do not anticipate demand for the WorkAble Scotland programme from those on Jobseekers' Allowance or the equivalent Universal Credit client group.

In order to maintain continuity of support to Employment and Support Allowance (ESA) customers in the Work Related Activity Group who are seeking employment support during the transitional year, Ministers have agreed to fund a one year contract to support this group which will be managed by Skills Development Scotland (SDS).

SG Policy aims

The aim of the transitional service is to:-

- Support customers into sustainable jobs through the provision of high quality, flexible and responsive employment support to those with a health condition claiming Employment and Support Allowance who want and need help to enter and remain in the labour market;
- Including gathering information on the most effective support for customer groups who struggle in the labour market; work in partnership with stakeholders to establish support that achieves high quality outcomes that equal or exceed existing Work Programme outcomes for this group and
- Create a strong platform for the delivery of a new programme of support from April 2018,

Volumes

It is difficult to forecast potential volumes for this service but we have used figures for those on ESA who have volunteered for the Work Programme as a proxy and as such do not anticipate demand for more than 1,500 starts in 2017-2018. The number of places available through WorkAble Scotland will be capped at 1,500 starts, with an expectation that SDS will work pro-actively to achieve this level.

- **Rationale for Government intervention**

The Smith Agreement set out the basis on which the Department for Work and Pensions (DWP) contracted employment support would be devolved to Scotland. Whilst Scottish Ministers have long argued for Scotland to have full control over employability powers this has been limited by the UK Government to the services currently provided through the current Work Programme and Work Choice contracts.

Clause 31 of the Scotland Act 2016 gives the Scottish Government the legislative competence to create employment schemes to assist those at risk of becoming long-term unemployed who are receiving UK benefits such as Universal Credit, and to help disabled people into work, including schemes which seek to help employers find suitable employees.

Following Royal Assent of the Act in April 2016, the powers set out in Clause 31 commenced on 5th September 2016.

Consultation

- **Within Government**

We have discussed our Transitional Employment Support Programmes with the following stakeholders:

- The Department of Work and Pensions
- Skills Development Scotland
- Scottish Government – Procurement
- Scottish Government – Legal Services
- Scottish Government – Analytical Services
- Scottish Government – Health
- Scottish Government – Disability
- Programme Board Advisory Group
- Stakeholder Advisory Group

- **Public Consultation**

From July to October 2015, the Scottish Government undertook an extensive consultation on the devolution of employment support. More than 70 events were organised by user and stakeholder groups throughout Scotland. The consultation was closed to respondents on 9th October 2015.

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

Rocket Science identified six key messages from the responses. Three relate to the features of a 'Scottish Approach' and three to the design and delivery of the replacement programmes within this. Respondents believed that the 'Scottish Approach' to employability support should:-

- Provide a flexible, tailored, 'whole person' approach;
- Be designed and delivered in partnership; and
- Reflect a drive towards real jobs.

The devolved replacement programmes should:-

- Be designed nationally but adapted and delivered locally;
 - Use contracts that combine payment by job outcomes and progression towards work; and
 - 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 the 22nd March 2016.

An Equality Impact Assessment (EQIA) is being carried out along with the BRIA for both transitional programmes. However, the Scottish Government is clear in its ambitions to tackle inequality and a number of policies exist which will support this obligation to meet the requirement of the Equality Act 2010.

- **Business**

Clause 31 of the Scotland Act 2016 will effect Third Sector Groups, services providers, training organisation and Employers such as:-

- Shaw Trust
- Momentum
- Remploy

Options

Option 1 – Develop and provide the provision of adequate employability services for disabled people and those at risk of long term unemployment for the period 1st April 2016 to 31st March 2017.

Clause 31 of the Scotland Act 2016 gives the Scottish Government the legislative competence to create employment schemes to assist those at risk of becoming long-term unemployed who are receiving UK benefits such as Universal Credit, and to help disabled people into work, including schemes which seek to help employers find suitable employees.

Following Royal Assent of the Act in April 2016, the powers set out in Clause 31 commenced on 5th September 2016.)

The SG 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 one year transitional services while meeting its aims for 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 covering the period from 1st April 2016 to 31st March 2017.

Sectors and groups affected

- employers and businesses to tell us what they need from those they employ;
- Those organisations who deliver existing services such as Remploy, Momentum and Shaw Trust.
- agencies, organisations and representative bodies who have an interest in how we support people into good quality, sustained and fair work such as Job Centre Plus (JSP), Health Boards, Inclusion Scotland, Disability Agenda Scotland and Capability Scotland.
- Training Providers
- Local Authorities and Community Planning Partnerships

Benefits to Sectors and groups affected

Option 1 – Develop and provide the provision of adequate employability services for the disabled and those at risk of long term unemployment for the period 1st April 2016 to 31st March 2017.

- Supporting the case for further future devolution;
- Maintaining public and stakeholder's confidence in the Scottish Government's competence and its ability to deliver services;
- Improving public opinion of employability services in Scotland;
- Providing the services people need while allowing them to influence the development and delivery of those services;
- Long-term job outcomes for targeted individuals which contribute to the Scottish Government's Fair Work agenda;
- Improving engagement for targeted individuals; and
- Sustained reduction in need for other services including JSA, social work, health care and the justice system.

Option 2 - Do Nothing

- It is not clear that there are benefits from doing nothing, and we have a legislative duty to deliver a service. Costs include:
 - any increase in long-term unemployment is concerning as sustained unemployment can be damaging to future labour market prospects

both for the individuals involved and the economy as a whole.

- Workers may lose their skills causing a loss of human capital and this in turn can impact on the productive potential of the economy.
- People may also be less likely to participate in the labour market the longer their spell of unemployment.
- This reduces the pool of labour in the economy and diminishes its capacity to produce goods and services.

Costs

Option 1 - Develop and provide the provision of adequate employability services for the disabled and those at risk of long term unemployment for the period 1st April 2016 to 31st March 2017.

There will be no increased administration burden on Service Providers as the current providers of WorkChoice will continue to provide the new service through the transitional period under Scottish Government's NCA contract.

Option 2 - Do Nothing

There will be no increased cost to Service Providers. However, this approach will be detrimental to the economy and unemployed people in Scotland.

Innovation and Investment Fund

Option 1 - Introduce Innovation and Investment Fund to the categories of grant assistance under the 2004 Regulations

The Scottish Government has a long standing ambition for greater integration and alignment across the public sector. Devolution of employment services is a clear opportunity to not only build on the strengths of existing national and local services but to develop a long-term plan that will set our vision for achieving greater alignment and integration.

Research conducted for the Scottish Employability Forum by Cambridge Policy Consultants which was published in November 2014 highlighted the complex and fragmented nature of support and a need for greater alignment of services. The report found the delivery landscape to be complex, that policies could be better aligned, and roles and responsibilities clearer.

Integration and alignment is a long term agenda. Nonetheless, we have a responsibility to demonstrate leadership of that agenda and we are thinking carefully about how we take this forward within the context of devolution and public sector reform.

We are aware that our devolved employment service provides an excellent opportunity better align and rationalise the various employability schemes currently operating in Scotland. Our current work across Government to identify areas where we are able to integrate and align our policies can form the basis of this long term agenda and help the Scottish Government to demonstrate leadership.

The proposal of an Innovation Fund for 2017/2018 transitional period, would seek to support this vision. The funding and delivery of employment support, particularly through the introduction of new forms of funding, financial and delivery models will assist in improving alignment and integration and future SG Employment Services. A range of organisations, including third sector bodies, local authorities and public/private sector will be involved. Initiatives will be expected to be: innovative; offer value for money and reflect an acceptable level of risk.

Option 2 - Do Nothing

There will be no benefits to doing nothing as this will not develop the policy further or invest in future innovation of the persons relying on the service provision.

Sectors and groups affected

The sector and the group effected by the innovation fund would be:-

- Third Sector organisations
- SME's
- Long term unemployed including the Scottish Index of Multiple Deprivation areas. (SIMD)
- Disabled or disadvantaged groups within society.
- Local Authorities or Community Partnerships

Benefits

Option 1 - Provides an opportunity to innovate solutions that supports and develops employability in Scotland. In the Welfare to Work Report published on 21 October 2015 there was a recommendation that the UKG should set aside 2-3% of the total 2017 employment support budget for an innovation fund.

Option 2 - There are no benefits in doing nothing.

Costs

Option 1 – We do not expect there to be any increased administration burden on local authorities.

Option 2 – There are no benefits in doing nothing.

Scottish Firms Impact Test

Clause 31 of the Scotland Act 2016 will effect 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 Local Authorities. The consultation responses received have not altered the Scottish Governments overall view that there are no significant costs to Service Providers arising as a result of these changes being made.

Competition Assessment

Clause 31 of the Scotland Act 2016 allows Scottish Ministers to introduce certain terms and conditions and procedures for providers to follow when providing employment support services in Scotland. In order to maintain continuity of support to disabled people during the transitional period to new services and to enable the reconsideration of options to take place, Scottish Ministers have agreed to enter into a transitional period to undertake:

(i) a non-competitive action (NCA) with the three existing Work Choice providers, Remploy, Shaw Trust and Momentum Skills in order to deliver services for WFS. This NCA contract, which will run from April 2017- March 2018, will provide a comparable level of support to the previous DWP contracts. The intention is that the NCA remains largely unchanged from the current Work Choice programme, but with some proposals for consideration which would define an appropriate level of service on a one year transitional basis while helping us move towards the new contract in 2018.

(ii) In order to maintain continuity of support to Employment and Support Allowance (ESA) customers in the Work Related Activity Group who are seeking employment support during the transitional year, Ministers have agreed to fund a one year contract to support this group which will be managed by Skills Development Scotland (SDS).

Work Able Scotland

Work Able Scotland will support up to 1,500 people facing barriers to employment because of a health condition into work. It forms part of the devolved powers granted under the Scotland act (2016), with SDS managing the contracting for the service on the behalf of the Scottish Government. The programme is delivered by DWP and three delivery partners; Progress Scotland, The Wise Group and Remploy. Work Able Scotland aims to support individuals' needs using supportive coaching relationships with a dedicated case manager and co-ordinated access to skills and health support. It's designed for individuals who are:

- 18 years and over and not in employment
- Recipients of Employment and Support Allowance or Universal Credit equivalent
- Eligible and assessed as capable of progressing into work within a 12 month period
- Demonstrate a desire to work

Test run of business forms

There is no requirement to test any new forms associated with these programmes as they are similar to the previous form which have been completed for other employment programmes.

Legal Aid Impact Test

The Scottish Government Legal Services Access to Justice team has indicated that it is unlikely there will be any cost implications for the Legal Aid Fund.

Enforcement, sanctions and monitoring

Scottish Ministers have stated clearly that they believe devolved employment services will be better if they are delivered to people who are attending the programme on a voluntary basis, without the application of DWP benefit conditionality and subsequent risk of benefit sanctions if they fail to attend or drop out at an early stage.

It is generally assumed that in employability programmes, more of an impact can be made with people who volunteer to participate than those who engage on a mandatory basis. Those who volunteer are likely to be more motivated to find work given that they have chosen to participate rather than having been required to do so. A number of key elements must be in place to ensure positive engagement. These include the need to get initial engagement and referral right, to deliver high quality and appropriate provision and also accurate and timely advice. A voluntary approach with an outcomes based pricing model may also help to ensure that service providers offer a consistently high quality service to maintain customer engagement.

But a voluntary programme does not mean that the customer has no obligation to the service. We want to develop a social contract with those participating in our 2018 programmes which makes clear the expectations and obligations we will place on them while they engage voluntarily. That contract will be underpinned by our commitment to guaranteed and nationally consistent service levels - based on fairness dignity and respect - and an appropriate personalised support offer. If customers are not engaging appropriately with the programme – and have no good cause not to be doing so - it is only right that their opportunity is instead offered to someone else who will.

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

Implementation and delivery plan

Post-implementation review

Post implementation review will be an on-going exercise through discussions with the relevant , Third Sector organisations, Local Authorities and Government Departments including the Department of Work and Pensions.

Summary and recommendation

Summary costs and benefits table

There should be little or no increased administration cost to service providers. SG's transitional employment service will:

- encourage effective working relationships between referral bodies and providers;
- improve the standard of referral, in terms of appropriateness of referral and background information provided;
- establish the customer's willingness to engage with the service; and
- enable a collective assessment between customer, adviser and provider on the support needs of the individual.

Declaration and publication

I have read the 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:

A handwritten signature in black ink, appearing to read 'Jamie Hepburn', with a long horizontal flourish extending to the right.

Date: 2nd May 2017

Jamie Hepburn, Minister for Employability and Training

Scottish Government Contact point:

Carol-Ann Wilson, Employability Policy Team, 5 Atlantic Quay,
150 Broomielaw, Glasgow, G2 8LU
(carolann.wilson@scotland.gsi.gov.uk)



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