

Equality impact assessment of the framework within which Jobcentre Plus can use its discretion to reimburse employers for the cost of Criminal Record Bureau or Protecting Vulnerable Group checks

July 2011

Equality impact assessment for reimbursing employers for the cost of Criminal Records Bureau and Protecting Vulnerable Groups checks

Introduction

The Department for Work and Pensions has carried out an equality impact assessment on the proposal to introduce a framework within which Jobcentre Plus can use its discretion to reimburse employers for the cost of Criminal Record Bureau checks in England and Wales or of Protecting Vulnerable Groups checks in Scotland. The proposal is assessed in line with the current public sector equality duties.

This process will help to ensure that the Department has paid due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups; and
- foster good relations between people from different groups.

The equality impact assessment will show how the Department has demonstrated it has paid due regard to equality in respect of protected characteristics when developing new services or processes. These protected characteristics are; race, disability, gender, age, gender reassignment, sexual orientation, pregnancy and maternity, religion or belief and marriage and civil partnerships (in terms of eliminating unlawful discrimination only).

Brief outline of the policy or service

Employers and hosts in regulated roles are required to carry out Criminal Records Bureau (in England and Wales) or Protecting Vulnerable Groups (in Scotland) checks for all potential new employees or people doing Work Experience on their premises. This protects children and vulnerable adults and the protection of these groups via these checks is a policy owned by the Home Office.

Why we are introducing the policy

Jobcentre Plus has been using Adviser Discretion Fund and New Deal vouchers to pay for these checks where employers refuse to do so, some times in cash and sometimes in advance. However, this exposes the Secretary of State to potential legal liabilities. By introducing a framework, which sets out “exceptional

circumstances criteria” for when Jobcentre plus can exercise its discretion to reimburse employers for these checks, these risks are reduced.

What we want to achieve

The aim of the policy is to set a framework which meets legal requirements, remind Jobcentre Plus advisers of the responsibilities of employers and to support advisers in making a decision on when it is appropriate to reimburse employers for the cost of the check.

Who it is for

The exceptional circumstances criteria apply to people claiming Jobseekers Allowance who have been offered a job, Work Trial, Work Experience or sector-based work academy opportunity in a sector having roles that are regulated and where hosts or employers have declined to fund the cost of the Criminal Records Bureau or Protecting Vulnerable Adults check. The claimants must be either:

- in the group that gets voluntary early entry to the Work Programme at 13 weeks, but have not taken it up (see below for more detail on the categories in this group), or
- be aged 19 to 24, have been on Jobseeker’s Allowance for 13 weeks or more and don’t have early access to the Work Programme.

It also applies to people claiming Employment and Support Allowance who are in the Work Related Activity Group for the purposes of sector-based work academies.

How it will be put into practice

Jobcentre Plus will issue guidance for staff and, where the cost of checks is reimbursed, this will be met from the Flexible Support Fund which is a limited resource.

Consultation and involvement

Internal stakeholders

- Jobcentre Plus Strategy, Employers and Stakeholders Directorate
- DWP Finance
- DWP Young People and Employment Division
- DWP Labour Market Inclusion Division
- DWP legal group

External stakeholders

- Criminal Records Bureau
- Home Office

- Scottish Government
- Office of the Solicitor to the Advocate General for Scotland

Impact of the Criminal Records Bureau and Protecting Vulnerable Groups framework

The policy is aimed at helping people who are receiving benefits that require that they look for work. It also helps those groups who are eligible for the Work Experience and sector-based work academy programmes.

Analysts estimate that between 6,000 and 9,000 claimants¹ may have their Criminal Records Bureau or Protecting Vulnerable Groups checks reimbursed by Jobcentre Plus each year of the Spending Review. These are claimants that meet the exceptional circumstances criteria and cases where Jobcentre Plus has exercised its discretion. The majority will be claiming Jobseeker's Allowance but a small proportion will be in the Employment and Support Work Related Activity Group eligible for sector-based work academies. The estimate is that in 2011 and 2012 for sector-based work academies there will be about 400 Jobseeker's Allowance and Employment and Support Work Related Activity Group² people each year who may have the costs of checks reimbursed by Jobcentre Plus. Budget limitations mean that Jobcentre Plus is unlikely to be able to reimburse costs above these estimates.

The exceptional circumstances criteria include where an enhanced check is required but the host or employer has declined to fund it and the potential job or opportunity has been offered to a Jobseeker's Allowance claimant who has voluntary early access to Work Programme at 13 weeks but has not taken it up and is either:

- An ex-offender
- A disabled person (as under the Disability Discrimination Act definition)
- A person with mild to moderate mental health issues
- A care - leaver
- A carer on Jobseeker's Allowance
- An ex-carer
- A homeless person (either living in a hostel or a rough sleeper)
- An ex-member of HM Armed Forces

¹ A total of 150,000 WE and sbwa opportunities in 2011/12 and 2012/13, 30,000 to 40,000 Jobseeker's Allowance fast track to Work Programme per year to 2014/15, 360,000 to 460,000 young people claiming Jobseeker's Allowance for 13 weeks or more. 15% of Jobcentre Plus claimants move into work in regulated sectors (NOMIS off flow data) and we estimate 10% of these will get a Jobcentre Plus funded check

² 25,000 sector-based work academy opportunities in each of 11/12 and 12/13 x 15% x 10% = 375 each year

- A partner of a current or former member of HM Armed Forces
- A person with a history of substance dependency that presents a significant barrier to work, or
- A person aged 19 to 24, who has been claiming Jobseeker's Allowance for 13 weeks or more and doesn't have early access to Work Programme

Without the framework we are proposing, the individuals that fall within the exceptional circumstances criteria would not be able to accept a job (or Work Trial, Work Experience or sector-based work academy opportunity) in a regulated role.

Because of budgetary constraints we are unable to offer this support to everyone in the population. We are offering just to those people for whom a potential host or employer has declined to fund the check, who are required to look for work as a condition of receiving benefit, and who are in a group that has early entry to the Work Programme. That means claimants of Jobseeker's Allowance who have been claiming for 13 weeks or more and who are not in the Work Programme, and, for sector-based work academies, the Employment and Support Allowance Work Related Activity Group. No groups who are claiming these benefits will be disproportionately affected based on their race, age, gender reassignment, sexual orientation, pregnancy and maternity, religion or belief and marriage and civil partnerships.

The Flexible Support Fund is a limited resource. Employed people and those who are not required to be available for or actively seeking work as a condition of the benefits they receive, do not fall within scope in relation to the CRB checks.

Also, this policy builds on the existing Criminal Records Bureau or Protecting Vulnerable Groups checks policies. Those policies have their own EIAs.

Finally, we would like to highlight the difficulty in obtaining a profile of potential individuals who would fall within these exceptional circumstances criteria. Important parts of the criteria are independent of the characteristics of the individual (i.e., an offer from a regulated sector, an unwillingness of the employer or host to pay for the Criminal Records Bureau or Protecting Vulnerable Groups checks). It is, to a great extent, that independence that ensures that no particular group should be expected to be affected disproportionately.

Monitoring and evaluation

We are not planning a formal full evaluation of this change. However, we will monitor the volumes of the Criminal Records Bureau or Protecting Vulnerable Groups checks that are paid for, to make sure that the volumes are representative of exceptional circumstances.

This data will be routinely collected by Jobcentre Plus through the medium of monthly Labour Market System management information and through the monthly Flexible Support Fund spend.

Next steps

This policy will apply once Jobcentre Plus guidance has been finalised. The intent currently is that the programmes Work Experience and sector-based work academies will end in March 2013, and at that stage this framework will be confined to job offers and to Work Trial offers. If the eligibility criteria for the 2 programmes changes, then the policy will need to be reviewed and this EIA also.

The EIA will be reviewed by July 2012. The delivery of the policy will be monitored by Jobcentre Plus and owned by its Benefit and Labour Market Products Division.

Contact details

The contact in Jobcentre Plus will be Clive Churm, clive.churm@jobcentreplus.gsi.gov.uk and the policy contact in the Department for Work and Pensions is Nicholas Robinson, nicholas.robinson@dwp.gsi.gov.uk