



Department  
for Work &  
Pensions

Adran Gwaith  
a Phensiynau

# Commissioning Strategy

July 2014

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# 1 Ministerial Foreword

We have overseen great progress in recent years in how we work with providers: improving the effectiveness and value of our provision while testing and developing new approaches to commissioning and delivery.

We have introduced the Work Programme, a major leap forward in establishing Payment by Results on a large scale. Work Programme performance is now forecast to exceed our previous programmes, while costing less than we expected. It is essential that we retain the underpinning principle of Payments by Results wherever possible.

Market stewardship and contract management are essential components of effective commissioning and delivery and the Department will ratchet up its capability in these areas. The welfare to work market has been created to deliver the best possible outcomes for our claimants. We need to monitor the market closely to make sure it is functioning optimally. This is why transparency is a vital principle to encourage market improvement.

Building on these principles, we need to develop approaches to commissioning that bring together the right skills across the public, private and voluntary and community sectors. We want to highlight two key ways we can achieve this.

First, we are looking at how we can split the provision of capital from the provider of the service. This is where forms of social investment, such as Outcomes Finance or Social Impact Bonds, can play a new role. We will draw on social investor experience to ensure we maximise the role for social investment, including working with Big Society Capital.

Second, we want to capture the importance of partnerships, especially with local organisations, such as those being built through the Universal Credit Local Support Services Framework. These partnerships can harness a variety of funding streams to provide holistic support, particularly for more vulnerable people.

This commissioning strategy sets out the key themes which will define our relationship with providers and our overall approach right across the market place – from the largest programmes to smallest contracts. In producing it we have listened to the positive and constructive contributions of providers and stakeholders, using last year's consultation as a sounding board to test and develop our ideas. We have


sought to build on what we know has worked well and to tackle areas where we know there is room for improvement.

We look forward to working with both the market and our wider partners as we carry through the principles set out here.

A handwritten signature in black ink, appearing to read 'Esther McVey' with a stylized flourish at the end.

**Esther McVey**

Minister for Employment

A handwritten signature in black ink, appearing to read 'David Freud' in a cursive style.

**Lord Freud**

Minister for Welfare Reform

## 2 Introduction

The Department for Work and Pensions (DWP) purpose is to help people lift themselves out of poverty and stay out of poverty. We aim to provide the support people need to transform their lives. In the context of the public sector efficiency challenge, we need to do so while controlling costs to the taxpayer. In practice this means delivering more outcomes, achieving best value and doing this in a sustainable way.

We believe that work, and “in work” progression, is the best route out of poverty. Welfare to work outcomes and services are designed to enable and encourage employment for those who can work, and provide support for those in work to retain their employment and to progress. From these objectives follows economic independence – the Government’s aspiration for every citizen.

DWP and Government more widely have articulated the new policy and delivery landscape in which this can be achieved. The Social Justice strategy places reducing poverty and increasing economic independence firmly at the centre of the Government’s agenda<sup>1</sup>. The introduction of Universal Credit<sup>2</sup> will create infrastructure to support DWP to achieve this. It will fundamentally change the way in which DWP and partner organisations can work with claimants and lead to a greater emphasis on progression – in job roles, hours and earnings.

More widely, Government has set out to create a more strategic and skilled Civil Service which delivers outcomes for citizens through collaborating and engaging with an increasingly diverse range of partners and providers<sup>3</sup> – who collectively are enabled and empowered to work in new ways.

Commissioning is a way of working within this landscape to achieve our objectives. It can be broadly defined as:

*“the process of assessing the needs of people or users in an area, designing and specifying the services to meet those needs, and choosing the delivery mechanism to secure an appropriate service while making best use of total available resources”<sup>4</sup>.*

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<sup>1</sup> <https://www.gov.uk/government/policies/helping-to-reduce-poverty-and-improve-social-justice>

<sup>2</sup> <https://www.gov.uk/universal-credit/overview>

<sup>3</sup> <http://www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf>;  
<https://www.gov.uk/government/publications/open-public-services-white-paper>

<sup>4</sup>See Gash et al, page 20 <http://www.instituteforgovernment.org.uk/publications/making-public-service-markets-work>

## 2.1 Commissioning Strategy overview

This Commissioning Strategy focuses on the delivery of welfare to work outcomes and services. The Department for Work and Pensions is responsible for welfare policy and has a cross-Government lead role in developing the welfare to work sector.

In 2008, the Department published its first Commissioning Strategy for welfare to work. It was a framework which described and guided our approach to commissioning third parties across the sector, and supported DWP in the subsequent commissioning of major welfare to work programmes. We operate in a different strategy, policy and delivery context to 2008. We have tested new ways of commissioning over the past six years and in that time the market has changed and evolved.

Most of our major employment programme contracts are due to stop receiving new referrals within the next 2-3 years. The Employment Related Support Services (ERSS) Framework, used for Work Programme procurement, is also due to expire in early 2015. Ahead of any decisions on what follows ERSS and our current programmes, we decided the time was right to revisit our commissioning strategy. In the same way as the 2008 Strategy did, the intention is for this strategy to provide a framework for future commissioning decisions.

To help inform and shape the strategy we have drawn on evidence, best practice and the perspectives of experts and stakeholders. We have drawn on analysis, research and evaluation conducted on welfare to work programmes in the UK and other countries and on assessments and audit reports delivered or commissioned by the National Audit Office and Cabinet Office. We also launched a public consultation last year which ran from 31<sup>st</sup> July 2013 to 27<sup>th</sup> September 2013. A summary of responses is at Annex A and a list of respondents is at Annex B.

In order to deliver our commissioning future welfare to work policy objectives as efficiently and effectively as possible we need to broaden our thinking and look to develop new ways of commissioning. Large scale prime contracting enables us to meet the challenge of delivering efficient services at large scale and still has a place within the DWP commissioning landscape. However, to get full value from our specialist providers and realise the potential of social investment, we recognise the need to commission using a range of different approaches, in particular when delivering support to those furthest from the labour market. We will embrace the range of approaches available to us including the continued testing of innovative approaches, using the findings to inform future commissioning.

We need to refine our approach as well as broaden it. Regardless of whether we commission at a national or local level, we will drive performance by making competition more effective – for example, by doing more to create a level playing field for bidders capable of delivering. We will retain the scope for our providers to innovate but place a greater focus on assessing quality, so we always secure a service which can deliver.

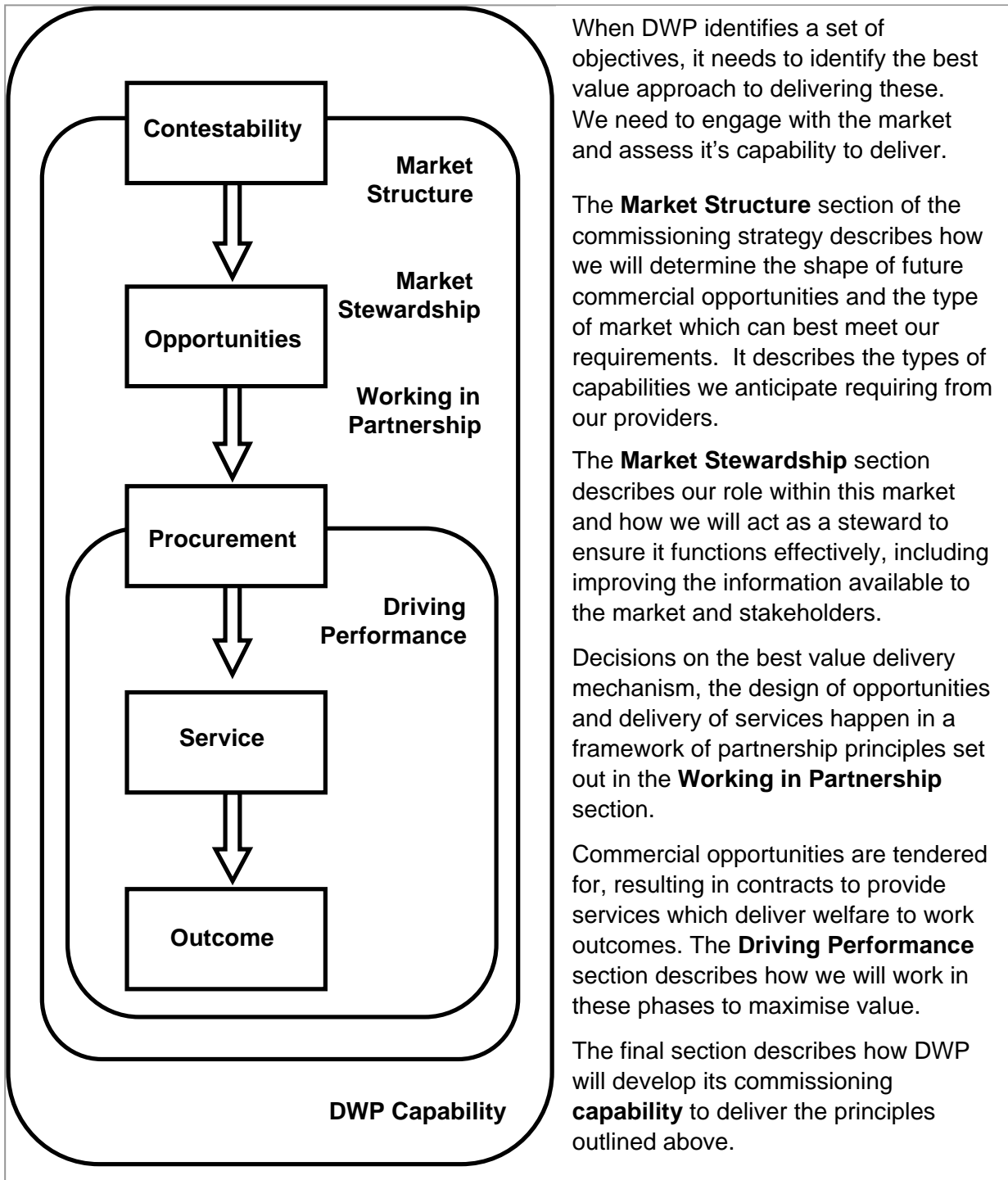
This document sets out the high-level principles through which we can achieve our goals in this new context. It is not a list of the outcomes we intend to deliver in future or the tenders we will issue. It is a framework for making decisions. DWP will not make those decisions alone. This document is intended to indicate to the market and to our partners how we will make those decisions – to set out what will matter to us and how we would like to work with you.

We are also committed to learning from and continuously improving our commissioning processes, working with key stakeholders. We will develop and adapt our approach as new information about the effectiveness of our commissioning becomes available.

## 2.2 Commissioning Strategy framework

The commissioning strategy provides a framework to enable us to commission more intelligently and consistently.

**Figure 1: The coverage of the commissioning strategy**





In setting this framework, it is important to recognise some fundamental characteristics of welfare to work services.

Recent outsourced welfare to work services have sought to utilise private investment and DWP is committed to growing the market for social investment in welfare to work. However, the welfare to work market is characterised by being primarily state-funded. The market currently contains a relatively small number of large scale buyers from the public sector. DWP is the major commissioner of welfare to work services in the UK. Other important buyers of related services include the Department for Business, Innovation and Skills and the Ministry of Justice – with Local Authorities and the Department for Communities and Local Government also significant.

The Scottish Government and the Welsh Government are important commissioners of services. A number of policy areas closely related to employment – such as education and training, health and housing – are devolved. To maximise welfare to work outcomes in Wales and in Scotland, it is therefore essential that DWP works closely with the Welsh Government and the Scottish Government to examine and optimise the fit between different programmes and funding streams.

Welfare to work services are designed to meet needs which are national in scope and scale but, like any public service, they are delivered in a specific place and for an individual. Work is also closely related to other key beneficial social outcomes. For example, the positive relationship between employment and mental health and the relationship between unemployment and re-offending are well established<sup>5</sup>. Therefore, delivering welfare to work outcomes most effectively and efficiently often requires a number of partner organisations at the national and local level to work together. There are different types of ‘partner’ in this context, and in this strategy we will broadly distinguish between contractual partnerships and non-contractual partnerships. Contractual partnerships in welfare to work can be between public service commissioners and their suppliers as well as between suppliers where subcontracting is used. Non-contractual partnerships may be between public service commissioning organisations and other organisations commissioning for or delivering related services.

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<sup>5</sup>For example, Dame Carol Black’s *Review of the health of Britain’s working age population ‘Working for a healthier tomorrow’*, available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209782/hwwb-working-for-a-healthier-tomorrow.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209782/hwwb-working-for-a-healthier-tomorrow.pdf); *Analysis of the impact of employment on re-offending following release from custody, using Propensity Score Matching* (MoJ, 2013), available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/217412/impact-employment-reoffending.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217412/impact-employment-reoffending.pdf)

DWP is accountable – to Parliament and to the public – for its commissioning. We must ensure that our programmes deliver optimum performance on outcomes and that there is continuity of service. Through our commissioning we will seek to deliver best value<sup>6</sup> in line with our Commercial Strategy<sup>7</sup>. We must ensure fraudulent activity is minimised. Given our accountabilities, we will always hold a portion of risk associated with the delivery of welfare to work programmes.

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<sup>6</sup> The Chartered Institute of Purchasing and Supply defines best value as “a trade-off between price and performance that provides the greatest overall benefit under the specified selection criteria”. This short definition is available at <https://www.cips.org/Knowledge/procurement-glossary/B/>

<sup>7</sup> <https://www.gov.uk/government/publications/dwp-commercial-strategy>

# 3 Market structure

Beneath the high-level aims outlined in the introduction is a diversity of potential objectives, outcomes as well as service recipients with a multitude of needs. The following principles describe how we will determine the shape of commercial opportunities to meet our objectives and the outline of the market we expect. These principles also describe the capabilities we will require.

## Principles

### 3.1 Future commercial opportunities

- In commissioning to achieve any welfare to work objectives, delivering strong and sustainable performance across outcome measures and groups of recipients, as well as value-for-money and the ability to operate a sound control environment will always be central to our approach.
  - In line with DWP's broader emphasis on value, the consideration of Social Value<sup>8</sup> will be fully integrated into our commissioning. We will be clear about how Social Value will be assessed in our tender evaluation.
  - In common with the wider public sector, we will also give ongoing consideration to how our commissioning can support the objective of economic growth<sup>9</sup>. In particular, we expect this to be through ensuring Small and Medium-sized Enterprises (SMEs) are engaging in the welfare to work market, directly or through the supply chain<sup>10</sup> and through working at the local level with employers and colleges.
- To achieve strong, sustainable performance we need a diverse, open and vibrant market for providers at all levels. This will create the conditions for longer-term

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<sup>8</sup> The Social Value Act created a requirement to consider at the pre-procurement stage the relevant wider economic, environmental and social benefits of what is proposed to be procured. <https://www.gov.uk/government/publications/procurement-policy-note-10-12-the-public-services-social-value-act-2012>

<sup>9</sup> <https://www.gov.uk/government/policies/buying-and-managing-government-goods-and-services-more-efficiently-and-effectively>

<sup>10</sup> Central government has set a goal of 25% of spending to go to SMEs by 2015 to support economic growth. <https://www.gov.uk/government/policies/buying-and-managing-government-goods-and-services-more-efficiently-and-effectively/supporting-pages/making-sure-government-gets-full-value-from-small-and-medium-sized-enterprises>

effectiveness and efficiency through ensuring the market is competitive and resilient.

- We are committed to ensuring there continues to be diversity in the market, with the public, private and voluntary, community and social enterprise sectors delivering.
  - We seek to create regular opportunities at all levels through our commissioning.
- From the range of capabilities we will require, it follows we will need to use a range of commissioning approaches. This will create a range of opportunities for larger and smaller providers.
    - Where we commission programmes at the largest scale, we believe nationally commissioned, centrally designed and managed programmes, and the use of a prime contractor model offers efficiency and has a place within the DWP commissioning approach. Some components and capabilities which we expect to form part of welfare to work delivery can benefit from economies of scale, particularly those relating to analysis and administration.
    - Where we commission some more specialist services, particularly for those furthest from the labour market, we will utilise different commissioning models, including the use of smaller scale contracts where this is appropriate. Smaller-scale contracts could be procured through DWP and Jobcentre Plus or by a third-party on DWP's behalf.
    - We will also test innovative solutions to delivering our specialist services, in order to build our commissioning expertise and evidence base. These will include the use of co-commissioned provision. We also will continue to explore opportunities to use innovative Social Investment-based funding models, particularly where they target those with multiple and complex needs. These will build on the remarkable growth in the social investment market we have seen in recent years<sup>11</sup> and on our testing of Social Investment Bonds<sup>12</sup>.
  - Where we commission providers directly through our Jobcentre Plus network, we would expect to purchase using a mix of national or regional commercial frameworks with some single procurement, around which there is greater local flexibility.

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<sup>11</sup> <https://www.gov.uk/government/publications/social-investment-an-introduction-to-the-governments-approach>

<sup>12</sup> DWP established a £30m Innovation Fund to create Social Impact Bonds (SIBs) to tackle the challenge of youth enemployment in new ways – attracting interest from across Government and internationally. More information is available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212328/hmg\\_g8\\_factsheet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212328/hmg_g8_factsheet.pdf)

- We are committed to developing our understanding of the smaller, specialist provider base so we can ensure we are getting best value from this part of our market.
- Under the 2014-20 arrangements for European Structural Investment Funds in England, DWP has agreed to provide opt-in support to Local Enterprise Partnerships (LEPs) in the procurement and management of provision. This is in support of the LEPs' employment priorities, to support local growth using the European Social Fund ESF element of the LEPs' funds.
- Where we deploy the prime contractor model, we will ensure we retain features which have proved effective as well as refining our approach in line with this strategy.
  - We recognise contracts should be of sufficient length to give providers the security to invest, develop their delivery models and their contractual and non-contractual partnerships.
- Contract structures for larger scale programmes will rarely allow for fully aligned boundaries with all our potential partners. But we will seek to develop contract structures which enable co-commissioning and encourage joint working between our providers and potential non-contractual partners, such as other public service commissioners.
- We will ensure an understanding of the principles of the Compact between Government and Civil Society Organisations<sup>13</sup> informs our future competitions, service specifications as well as our contractual terms and conditions. We will also ensure an understanding of equivalent arrangements in Scotland and in Wales informs our commissioning approach.

## 3.2 Provider capability

- Following consultation, we have retained the core provider capability framework set out in the 2008 Commissioning Strategy (listed at Annex C), adding to these where necessary. These capabilities are what we require from the supply chain collectively – some by the prime provider, some by the supply chain and some by all, depending on the set of objectives and specification.

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<sup>13</sup> <https://www.gov.uk/government/publications/compact-the-agreement-between-government-and-the-voluntary-community-sector>

- As we seek to achieve improved performance, we will place an increased emphasis on the below selection of capabilities from the framework at Annex C, which mainly relate to management capability, governance, controls and partnerships:
  - rigorous performance management;
  - programme and project management;
  - investment by providers in the development of their own staff and their supply chains;
  - supply chain management and development;
  - effective partnership working (at a national and local / community level); and
  - an understanding of the challenges faced by disadvantaged claimants and strategies to support this group into work.
  
- In addition to the core provider capability framework, we have identified a series of additional capabilities which we require, taking into consideration DWP and wider Government strategy as well as learning from our welfare to work commissioning:
  - As the market for public services continues to change and evolve, increasing areas of public services have been opened up to organisations from across the public, private and voluntary and community sectors. The capability to join up public services and funding streams will be increasingly important.
  - We are continuing to refine our use of commissioning approaches which feature less service specification by DWP and greater scope for services to be designed by providers and adapted in live running. We will require providers to continuously improve, test new approaches and develop effective practice.
  - We have set out our commitment to increase and improve our digital services as part of our ambition to be the most effective and efficient delivery organisation in the public sector.<sup>14</sup> Welfare to work providers will increasingly require digital capability and IT infrastructure. We will expect providers to deliver digital services as appropriate, while still ensuring accessibility for all service user groups.
  
- Over the course of our longer contracts, there could be substantial changes to the labour market as well as shifts in Government priorities. Providers will need to be flexible, with the capability to manage change and adapt their delivery models in line with these priorities. DWP will always work with providers in these circumstances.

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<sup>14</sup> <https://www.gov.uk/government/publications/dwp-digital-strategy>

- A characteristic of welfare to work delivery, particularly in longer contracts, is that the numbers of users requiring services, and their characteristics, cannot be determined with certainty at the outset. DWP will continue to develop its forecasting and the information we provide to the market. However, providers of welfare to work services will always need to accept some risks around the fluctuation of volumes and variation in claimant characteristics as an inherent part of delivering these services.
  
- We are committed to providing services which embrace diversity and that promote equality of opportunity. We will continue to publish information on equality annually: relating to our policies, practices and service users as well as relating to our employees<sup>15</sup>.

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<sup>15</sup> <https://www.gov.uk/government/organisations/department-for-work-pensions/about/equality-and-diversity>

# 4 Market stewardship

As a major buyer of welfare to work services, DWP must act as a steward to the market to ensure it functions effectively. An important part of this role is improving the information available to the market and to wider stakeholders.

## Principles

- We are committed to stewarding the market and playing an active role in its ongoing evolution. We will work with our major public service commissioning partners and the Cabinet Office to develop a cross-government approach to stewardship, recognising the increasing interactions between commissioning activities across the public sector.
- We are reliant on the strength of the whole welfare to work market to deliver sustainable and improving performance. Where we deploy a prime contracting model, prime providers will carry a responsibility to steward and develop this market beneath prime provider level.
  - We will continue to build an understanding of providers' businesses and to use the principles of strategic Supplier Relationship Management as a basis to collaborate with providers, steward the market and drive programme performance.
  - We will maintain strategic forums for our prime providers to identify opportunities and threats to the performance of the market.
  - Through our commissioning, we will ensure there are clear and consistent incentives for all prime providers in all geographies to develop and maintain the market at the sub-national level to help meet DWP objectives.
- Where our commissioning leads to the creation of supply chains, we must drive these to be high-performing and built on excellent relationships. Given their potential diversity, DWP will not seek to define the detail of supply chain structures – we continue to view these arrangements as primarily the responsibility of prime providers, who are best placed to identify which subcontractors will best fit their delivery models. However, we recognise that our commissioning will create some parameters.
  - Our Code of Conduct (at Annex D) remains the set of values and behaviours which we consider essential for healthy, high-performing supply chains.



- Our Code of Conduct takes account of the principles of the Compact<sup>16</sup> between Government and the voluntary and community sector. Adherence to the Code should ensure that the Compact forms part of the arrangements between prime contractors and voluntary, community and social enterprise sector subcontractors – and, more widely, that all subcontractors are treated fairly.
  - We have an expectation that each link in the supply chain adds value – and will expect that the risk profiles passed down through supply chains reflect the financial strength of organisations.
  - While prime providers must have primary responsibility for building their supply chains, in our market stewardship role we have a responsibility to understand how these relationships operate.
- We will undertake a suite of activity to give the Code practical effect.
    - The Merlin Standard<sup>17</sup> articulates the behaviours that typify excellent supply chain relationships. Organisations will be independently assessed and accredited, with the accreditation reports made public. The Merlin Standard is subject to regular review and development, with the ambition to make the Standard, and its ethos, recognised across government.
    - We recognise that the formation of supply chains with excellent relationships is facilitated by sufficiently long pre-procurement and procurement phases. These will enable prime providers to design delivery models and engage with potential subcontractors and allow all parties to give careful consideration of available data on inflows and costs.
    - There is potential for SMEs to play an important role in welfare to work supply chains and, in our role as market steward, we will monitor the use of SMEs in future large scale programmes. We will take steps to ensure we are getting full value from this group of suppliers in the delivery of our welfare to work objectives.
  - To maintain our understanding of the market and provide subcontractors with an opportunity to provide feedback directly, we will hold a periodic forum for smaller providers and subcontractors to complement our strategic engagement with prime providers.

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<sup>16</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/61169/The\\_20Compact.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61169/The_20Compact.pdf)

<sup>17</sup><http://www.merlinstandard.co.uk/>

## 4.1 Level playing field

- We believe a level playing field is important when commissioning to achieve any given set of objectives. In practice, this is a level playing field within the scope of each set of objectives and accompanying specification. Acting alone, the smallest organisations will not have the capacity to compete with the biggest organisations for any large-scale prime contracts, but minimising barriers to market entry must be a priority.
- To achieve our goal of a diverse welfare to work market, DWP will work collaboratively with trade bodies and membership organisations to support capability building activity for prospective providers.
  - For smaller organisations, we expect the focus of this activity to be on finance, risk and bid-writing. We will look, in particular, at the approach taken recently by the Ministry of Justice in the commissioning of the Rehabilitation Programme<sup>18</sup>, particularly the capability building action plan for the voluntary and community sector.
- DWP will continue to work with the market to improve capability and drive up performance, as we have with the Work Programme best practice group<sup>19</sup>. But as the market develops, providers will need to take increasing responsibility for building capability, working collaboratively where it makes sense to do so.
  - We welcome the work of trade bodies and sector-based associations in developing resources for the industry, such as the ERSA Employability Awards and the creation of the Institute of Employability Professionals. Such developments are vital to the development of viable, high performing sector.
- Sufficiently long pre-procurement and procurement phases containing close market engagement by DWP can contribute to a level-playing field. In particular, we believe this can support the formation of consortia and partnership models through which smaller organisations can bid for larger contracts.
  - We will give the market the earliest possible sight of opportunities and work with the sector to understand the risk and return associated with significant welfare to work opportunities at the design phase.
- We will also promote a level playing field through taking a more structured and standardised procurement process to minimise transaction costs. We will have a

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<sup>18</sup> <http://www.justice.gov.uk/transforming-rehabilitation/voluntary-sector-and-probation-mutuals>;  
<http://www.justice.gov.uk/downloads/rehab-prog/3sc-action-plan.pdf>

<sup>19</sup> <https://www.gov.uk/government/news/helping-more-of-the-hardest-to-help-into-work>

particular focus around supply chain formation for larger opportunities – for example through using standardised Expression of Interest forms.

- Our future commercial opportunities will be advertised through Contracts Finder so they are visible and open to all at the earliest opportunity. Prime providers will be requested to advertise their opportunities through Contracts Finder<sup>20</sup>.

## 4.2 Social investment

- Over the last 3 years the UK has established itself as a world leader in the social investment market. Social financing plays a vital role in achieving the Government's social objectives and as the market grows, it can increasingly contribute to a level playing field, by providing a source of finance and financial expertise aligned with the purpose and mission of the voluntary and community sector.
  - We will work with leading social financing organisations to develop the compatibility between their lending requirements and our commissioning processes. We are beginning discussions with Big Society Capital to identify how social financing organisations can play a role in our future commissioning.
  - We expect the scale of social investment to shift from small-scale lending in pilots and trials, to larger investments underpinning successful bids for our major welfare contracts. In particular, social financing represents an opportunity for smaller organisations to consider bidding for larger contracts.
  - We will work toward a goal that all future commissioning processes are designed to enable a competitive bid backed by social investors. This could, for example, be in the form of a partnership of social investors and small, localised service delivery organisations.
  - We recognise potential bidders for social finance will have to satisfy a rigorous application process. But we believe that many providers, working as prime providers or subcontractors, have built up proven track records of delivering the Government's major welfare programmes and will therefore have a strong case to make to social finance organisations.

## 4.3 Information and transparency

- In our role as a market steward, we have a responsibility to ensure the availability of information in the market to ensure its functions as effectively as possible. We

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<sup>20</sup> <https://www.gov.uk/contracts-finder>

view transparency as essential for delivering improved outcomes and productivity in our public services.

- Through our Open Data Strategy<sup>21</sup>, we have emphasised that transparency is an important operating principle for the Department. We recognise that relevant, up-to-date, high quality information can improve the effectiveness and efficiency of any market place – and the welfare to work market is no exception.
- We already make a wide range of information available on our major welfare to work programmes to our contractual and non-contractual partners, wider stakeholders and the public. In the coming years, we will make increasing amounts of information available.
  - We will publish more information at the pre-procurement and procurement phases, to give providers and stakeholders a stronger understanding of the basis of our referral forecasts and performance expectations.
  - We will set clear objectives, outcomes and performance expectations for our programmes and publish these. We will publish clear performance information and will continue to develop our self-service tools, such as our Tabulation Tool, to allow anyone to analyse performance information on these programmes on an ongoing basis. This includes breaking down performance by areas, such as by Constituency and Local Authority area.
  - We will seek to make increasing amounts of information available to the market on who is participating below prime level and their performance. This information will need to be accompanied by controls, particularly around the timing of publication. High quality Official Statistics on DWP programmes, produced in line with the Code of Practice for Official Statistics<sup>22</sup>, must not be undermined.
  - Performance information for our major welfare to work programmes will be accompanied by transparent cost information and high-quality, independent evaluations.
- We recognise the potential of an accurate needs-based assessment for our service users. We will continue to pilot and develop assessment tools to improve

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<sup>21</sup> See <http://data.gov.uk/library/dwp-open-data-strategy> and <https://www.gov.uk/government/publications/transparency-and-open-data>. The Cabinet Office Open Data White Paper, which is available at <https://www.gov.uk/government/publications/open-data-white-paper-unleashing-the-potential>, defines Open Data as: accessible (ideally via the internet) at no more than the cost of reproduction, without limitations based on user identity or intent; in a digital, machine readable format for interoperability with other data; and free of restriction on use or redistribution in its licensing conditions.

<sup>22</sup> <http://www.statisticsauthority.gov.uk/assessment/code-of-practice/>

the effectiveness of our referrals. These tools will be based on need and evidence on what works and for whom.

- To have a range of relevant, up-to-date, high quality information which can be made available to the market and the public and which will enable DWP to drive performance, we will require data collection from our providers.
  - We will set a clear information requirement of our providers, including some detail on the format in which information will need to be provided.
  - Where larger, longer-term contracts are used, we will require some ad-hoc reporting and we may need to change some requirements through the contract. This will be done in consultation with providers.
  
- We will place greater emphasis on the importance of openness and transparency in supply chain relations. This is a thread which runs through the Merlin Standard, but we will be increasing our focus on ensuring there is clarity between supply chain partners, in particular around management fees and the risks related to subcontractual opportunities.
  - Management fees for subcontractors will vary, reflecting the differing business models of prime contractors. We will expect real clarity around the level of the fee and costs it is designed to cover, in line with industry best practice.
  - We recognise our role in enabling the above. By ensuring the pre-procurement, procurement and implementation phases are sufficiently long we can enable prime providers to provide their subcontractors with greater clarity.
  
- We place clear conditions on the receipt of benefit. We expect that the users of DWP-commissioned services, which for welfare to work services will most commonly be claimants, are given clarity on the standards and support they can expect.
  - Our providers must have a visible complaints procedure for service users. We have an Independent Case Examiner<sup>23</sup> which provides an independent review of complaints made to providers where requested.

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<sup>23</sup> <https://www.gov.uk/government/organisations/independent-case-examiner>

# 5 Working in partnership

Across government there are different funding streams and resources dedicated to delivering related outcomes often to the same recipients. So to achieve our objective of delivering best value services and to support our ambition of seamless services, partnership working is essential. This is one of the underlying principles of the Government's Social Justice strategy and the importance we place on working this way in future has been underlined by our Disability and Health Employment Strategy<sup>24</sup>.

We must see close partnership from the national level, between DWP and major national commissioners of related services such as the Welsh Government, the Scottish Government and national departments & agencies, down to the local level, with local government organisations across England, Scotland and Wales.

This section focuses on the relationship between DWP (and those contracted to deliver on our behalf) and our non-contractual partners, including organisations commissioning public services and those that deliver them.

## Principles

- We are committed to being a strong and proactive partner. The most effective partnership approach will depend on the sets of objectives that we and prospective partner organisations are seeking to achieve over a given time period or geography. But we will always seek to work closely with partners, particularly other public service commissioners, voluntary sector organisations and employers, from the outset of the commissioning process.
  - We will develop the incentives for our commissioners, partners and providers to work together – and support them to be capable, confident and open to a range of effective and efficient partnership models.
- Partnership can be through formal partnership arrangements or more simply through collaboration. It can involve basic information sharing, the alignment of services or more integrated approaches, such as the co-commissioning of

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<sup>24</sup> <https://www.gov.uk/government/publications/the-disability-and-health-employment-strategy-the-discussion-so-far>

services to deliver multiple or shared outcomes<sup>25</sup>. However, DWP is seeking to move to more integrated forms of commissioning at the national, sub-national and local level, especially to support those furthest from the labour market.

- Our future commercial frameworks will be designed to minimise the bureaucracy in co-commissioning, in order to incentivise the use of this approach where appropriate.
  - New commissioning and delivery approaches are being developed with Department of Health and others to improve employment outcomes for those with common mental health issues.
- We recognise the importance of working with partners at the sub-national level. This will be particularly important to support those furthest from the labour market. We have given freedoms and flexibilities to frontline managers to enable greater local tailoring and responsiveness. We will build on these to develop our sub-national commissioning capability.
    - We recognise the efficiencies to be gained by working in partnership through Jobcentre Plus with Local Enterprise Partnerships and Local Authorities, using Community Budget approaches<sup>26</sup> where appropriate.
    - Our commitment to this way of working is underlined by the Universal Credit Local Support Services Framework, through which Jobcentre Plus and Local Authorities will work in partnerships to deliver key services in support of welfare reforms<sup>27</sup>.
  - The relationship between our third party providers and our non-contractual partners (and their delivery networks) can have a real impact on the effectiveness and efficiency of services. There is some good practice out there already, but we want to ensure an increasing, and more consistent, quality of partnership working.
    - We expect partnership working and a detailed understanding of the local provision landscape, including provision commissioned by Local Authorities, to be a prominent part of future responses to our invitations to tender. As part of the tender evaluation, we will seek assurance from partners cited in bids and we will seek partners' input in the performance management of contracts.
    - In our commissioning we will consider the wider related delivery and funding landscape. But it is for providers to use their partnership working to develop a detailed understanding of this landscape in the place where they intend to

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<sup>25</sup>Co-commissioning approaches can deliver outcomes for multiple public service commissioners through the same contract. We have piloted and evaluated co-commissioning approaches with partners such as Public Health England, the Department of Health and the Ministry of Justice.

<sup>26</sup> <https://www.gov.uk/government/policies/giving-local-authorities-more-control-over-how-they-spend-public-money-in-their-area--2/supporting-pages/community-budgets>

<sup>27</sup> <https://www.gov.uk/government/publications/universal-credit-local-support-services-framework>

deliver but it is for both us and providers to consider the potential links between our commercial opportunities and other major Government programmes and funding streams. As noted above, we expect the capability to join up funding streams to be increasingly important for providers.

- Given the subnational knowledge it contains, particularly around the labour market and the partnership landscape, we view the relationship between providers and the Jobcentre Plus network as critical.
  
- In relation to any particular set of objectives or programme, the landscape – in terms of related programmes and funding streams – is likely to be different across England, Scotland and Wales. DWP will work closely with the Welsh Government and the Scottish Government when commissioning welfare to work programmes, to develop the most effective fit with the strategic goals, policy frameworks and existing funding streams within the Devolved Administrations.
  - But any organisation delivering DWP commissioned welfare to work provision will also need to use their own partnerships to develop the detailed fit between its delivery model and the local funding and service delivery landscape.
  
- At a national level, we will continue to work with organisations commissioning at large-scale to develop the fit between strategy, policy and delivery. We will continue to use our resources, particularly our commercial, legal and analytical expertise, to develop an understanding of co-commissioning approaches and our capability to utilise this as an approach.
  - We work with the Department for Business, Innovation and Skills and the Skills Funding Agency in England and with Skills Development Scotland and the Welsh Government – as well as employers, colleges and skills providers locally on an ongoing basis – to develop the alignment between the employment and skills systems.
  
- We believe that improvements in data sharing can lead to advancements in partnership working, especially at the local level. This would include the sharing of information to improve services for customers as well as system level data to help drive better service design and delivery. We are contributing to Cabinet Office-led work to create a legislative framework to enable greater data sharing and we are a lead Department in the Centre of Excellence which looks at disseminating best practice on data sharing.



## 6 Driving performance

To realise our goals, we require a high-performing welfare to work market, which delivers effective, best value services. For the market to achieve this performance, we believe it must be diverse and competitive. Our commissioning is critical to the development of these characteristics. Our commissioning process must create the right incentives and feature a strong but streamlined performance management regime. Mechanisms for driving performance are effective where they are accompanied by a strong relationship between responsibilities and accountabilities and by a clear alignment of inputs, outputs and outcomes.

We also recognise that delivering an efficient and effective service requires real collaboration alongside competition. We can improve performance by increasing both. For example, we can increase competition by incorporating current and past performance into the tender evaluation process, while boosting the potential for collaboration through sufficiently long and structured pre-procurement and procurement stages. While we recognise there can be tensions between collaboration and competition, these are not unusual in markets. In practice, DWP can help manage these tensions by making clearer where in the commissioning process we expect collaboration and where we expect competition. Competitive and collaborative mechanisms to drive performance are created or used through service design, procurement and the live running of our programmes.

### Principles

#### 6.1 Service design and procurement

- The mechanisms which drive performance in our welfare to work services will depend on the approach to service specification and design. We believe that where DWP specifies more of the service delivery model, there should be a greater fee for service. Where DWP specifies less and providers have the opportunity to design more of the service, there will be a more outcome-focused payment model. This relationship aligns the responsibility for the design of a service with accountability for its effectiveness.
  - While this broad relationship creates a spectrum of possible approaches, we expect outcome-focused payment models to be a prominent feature of our future commissioning, especially for larger programmes. We believe that well designed outcome-focused payment models coupled with considerable scope

for providers to design the service delivery model can provide the incentives which drive high performance.

- Full specification of a service delivery model by DWP can restrict providers' flexibility to respond quickly to changing circumstances and emerging evidence of what works. However for some objectives, particularly those associated with supporting individuals who are furthest from the labour market, greater specification of the service by DWP and a greater proportion of payment as a fee for service may be appropriate. In these circumstances, we expect to work with the market to develop the specification.
- Regardless of the approach to service specification and design, we will always require monitoring and controls around the service being delivered.
  - We will set service standards for future programmes, so we can be assured of the quality of delivery. These can be developed in collaboration with the market.
  - These standards will be subject to monitoring, along with the governance, internal control, finance and data security arrangements of providers. DWP will require a commitment to complete transparency of these areas from the procurement stage onwards.
  - Where delivery falls below the agreed service standards, DWP will take robust action to remedy this.
- We typically use competitive tendering to identify the organisation best placed to deliver our objectives.
  - While we envisage relatively little use of grant funding, we recognise there will be circumstances where this approach is most appropriate, particularly for small-scale opportunities. DWP will continue to develop guidance for its commissioners on this approach to ensure we can achieve value for money where it is used.
- We will develop an approach to incorporate current and past performance into the tender evaluation process. Not accounting for this undermines competition in the market place and effectively penalises providers who deliver. But we recognise the tensions between the recognition of past performance and enabling new entrants to the market and will seek to strike a balance here.
  - As a minimum, where organisations have failed to meet contracted measures on specified previous programmes, this will be accounted for in the tender evaluation process.

- To achieve value for money we need providers who are best able to deliver the outcomes we define. To help us to identify these providers, we will shift the balance in our tender evaluation process toward quality from price.
- Taxpayers and users of public services rightly expect the highest levels of integrity from organisations delivering for them. The services we commission are frequently subject to scrutiny from internal and external auditors (such as the National Audit Office). Bidding organisations' track records in preventing fraud will form part of DWP's tender evaluation process.
- Competition through procurement is strengthened where the criteria on which bids are won are carried forward into the performance management of contracts in live running. Levels of service or outcome delivery contained in successful bids will form part of the performance management for contracts.
- As an effective commissioner, it is important that we develop a strong understanding of the live-running challenges associated with the contracts we let. To this end, we will examine for future contracts the feasibility of operating a Government-run comparator alongside the contracts let to third-party organisations.

## 6.2 Live running

- During the live running of programmes, DWP will manage providers' performance using outcome measures and service standards.
  - DWP will continuously review its performance management metrics to ensure they are driving delivery of the policy intent. Where perverse incentives are identified, DWP will act quickly to correct this.
  - We will continue to develop and refine an efficient but structured performance management and controls regime, which minimises bureaucracy for strong performers but places a more intensive focus on underperforming organisations. This regime will be built on robust, clear and relevant information.
  - We will evaluate the operation of Market Share Shifting and assess its effect so this can form part of our considerations in future commissioning exercises.
- The ability to rapidly evolve an efficient and effective service is a key strength of commissioning third party providers to deliver with more limited specification of the service by DWP. We will continue to work collaboratively with providers in areas of the contract, clearly defined from the beginning of the procurement,

where there is freedom for providers to adapt and develop delivery. We will ensure providers have a streamlined route to make changes to their delivery where the contract allows; to enable continuous improvement and the testing of innovations.

- Competitive tension drives performance, but we are open to providers collaborating where organisations identify that their distinct capabilities can together meet a need locally or nationally, deliver better outcomes or value. DWP will support and work with providers in these instances.
  
- We want to see our providers succeed – in delivering outcomes for claimants and providing good value for taxpayers. Where a provider falls below the standards they have agreed to deliver, we will respond quickly, fairly and robustly. This is an essential part of a system which works in the interests of service users, taxpayers and high-performing providers.
  - Where underperformance is identified, we will raise this with the provider at the earliest opportunity, be clear and consistent on why action is required and work with providers to improve.
  - Where providers are unable to improve they will be removed and replaced. Our commissioning arrangements will contain a viable failure regime, which enables a new provider to take over a contract quickly and easily, while minimising costs to the taxpayer and disruption to service users.
  - We understand that there may be occasions where a provider wishes to exit the market. As a proactive market steward, we will work with the market where a provider seeks to exit.

# 7 DWP capability

To develop our commissioning approach and to deliver in line with this strategy, we need to build our commissioning capability. This includes both the knowledge and skills of our people and the way we work as an organisation to enable them to deliver.

## Principles

- We are developing our organisational structure to strengthen lines of responsibility and accountability for welfare to work commissioning.
  - Building on the function of our Account Management team, we have created a division with end-to-end commercial responsibility for the welfare to work commissioning cycle. To complement this development, we have created supplier management roles to sharpen the focus on managing the performance of our live-running programmes.
  - We will be establishing a senior-level board with cross government representation, to provide strategic oversight of our welfare to work commissioning.
- Government has recognised the importance of skills critical to successful delivery through third party organisations and identified that these need a greater focus<sup>28</sup>. The delivery of commercial outcomes is the responsibility of all generalist and specialist Civil Servants who contribute to the commissioning of programmes delivered through third parties. Given the range of staff engaged in commissioning in DWP – including strategists and policy makers, specialist change delivery staff, commercial experts and analysts – there will, correspondingly, be a range of capability building activity required to make DWP a more effective commissioner.
  - We will develop the commercial awareness of staff beyond our commercial specialist cadre, to improve the quality of commissioning decisions from the inception of new objectives through to the review of their delivery.
  - We will build our contract management capability to ensure we can continue to effectively performance manage our welfare to work contracts.
  - We are committed to playing a full part in the Cabinet Office’s Commissioning Academy<sup>29</sup>. We expect our national and local commissioners to be a

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<sup>28</sup> This is evidenced by the addition to the pan-Civil Service competency framework of an ‘Achieving Commercial Outcomes’ competency.

<sup>29</sup> <https://www.gov.uk/the-commissioning-academy-information>

prominent part of the network of expert commissioners that the Academy programme seeks to build; learning and sharing best practice across the public sector.

- Partnership working is a key commissioning capability. We will ensure that Jobcentre Plus staff across the network have the skills and knowledge to be able to develop and maintain relationships with local non-contractual partners, including the voluntary and community sector, as well as nationally commissioned providers and their sub-contractors.
  
- We will be strengthening our commissioning processes by incorporating greater scrutiny and challenge.
  - We will increase our use of shadow bidding and undertake more stringent stress testing of our programme designs and commercial strategies.
  - We will utilise external perspective and expertise in the design of our tender evaluation criteria.

# Annex A: Summary of consultation responses

The consultation report “DWP Commissioning Strategy 2013 – Consultation” was published on 31<sup>st</sup> July 2013. The consultation period ran for 8 weeks and ended on 27<sup>th</sup> September 2013.

The consultation report set out the broad principles DWP would adhere to in the future commissioning strategy. This included highlighting that the vast majority of contract value is currently centrally commissioned; where DWP continues to use large-scale, national programmes to deliver objectives, DWP acknowledged it would continue to use this approach.

The consultation report invited respondents to provide comments to three key areas which will shape DWP’s future commissioning. These were:

- our approach to market structure and stewardship;
- driving performance; and
- working in partnership.

We were very pleased to receive such a high level of responses and appreciate the time taken by those organisations to provide views. This Annex provides an overview of the key points raised, captured under the three key areas outlined above. We have not been able to capture every point raised. However the final strategy has taken full account of every response. Annex D contains a full list of the organisations who responded.

## **Market structure and stewardship**

We made it clear in the consultation report that the vast majority of labour market programme contract value is centrally commissioned and where DWP continues to use large-scale, national programmes to deliver our objectives, we will continue to use this approach. Well designed outcome-based payment models have the potential to drive performance by providing a direct link between outcome delivery and provider finances, rewarding effective support for claimants. Outcome-focused contracts will continue to be a prominent feature of DWP’s future commissioning, especially for larger programmes. Linked to flexibility within contract specifications, this gives providers the opportunity – and responsibility – to develop effective models

and build their capability. We will also continue to commission specific small scale provision at a local level.

Many respondents supported this approach and suggested a series of improvements to future commissioning. In addition some felt more specialist support for those furthest from the labour market would be more appropriately commissioned at a local level.

It was also suggested DWP should consider future geographic boundaries for delivery of any national provision and in particular, it should take steps to ensure the integration of provision across local commissioning bodies (Local Enterprise Partnerships, Health and Wellbeing Boards, Local Authorities, Core Cities). A small number felt DWP should devolve the commissioning of all provision in its entirety to local areas. Whilst most supported longer contracts, it was suggested that there should be an annual review point within the contract.

When DWP is procuring provision many respondents said an early, open and transparent dialogue with the market at all levels is crucial, coupled with the supply of relevant data to help inform bids. Many also asked for far more transparency around performance data and for information below prime contractor level to be published and shared on an ongoing basis.

Many suggested procurement timescales should be of a sufficient length to allow for open dialogue through all tiers of the supply chain and for DWP to engage with as many potential providers (at all tiers of the supply chain) as possible through local face-to-face events. In addition DWP should be actively involved in capacity building for potential future subcontractors.

There should be a greater emphasis on quality rather than cost and past performance should also be a key factor when determining bids. A standard Expression of Interest template should be used for subcontractors during the bid process – to reduce the impact on resource.

Most respondents felt the Merlin Standard had an important role to play and that it covered much of what it needed to. Some suggested DWP should take a more proactive role in monitoring subcontracting arrangements and that the Merlin Standard does not go as far as it should do in supporting subcontractors. It was suggested a helpful addition would be the introduction of a discussion channel for subcontractors with DWP. Some suggested subcontractors were taking most of the risk on behalf of the prime providers. Linked to this issue it was felt that prime



providers should publish management fees and the risks related to the opportunity. Many would also support a future review of the Merlin Standard.

On Social Investment, many highlighted the key barrier to Social Investment is risk and that DWP should consider how it can make Social Investment more attractive for potential investors (up front funding, payment for intermediate outcomes). Respondents suggested the evaluation of the Innovation Fund should help inform next steps on Social Investment. Others suggested DWP should consider how it can work more collaboratively with other government departments in this area as many of the outcomes delivered under this approach impact on a range of departments. Many felt DWP should be proactive in supporting consortia building in this area.

## Driving performance

To achieve our objectives, we see strong sustainable performance on future DWP-commissioned welfare to work programmes as essential. That is why driving performance is the Department's main focus. Fundamental to our approach is rewarding the providers who deliver and dealing fairly and robustly where performance drops below what is required. We see this as essential to the ongoing development of a competitive, functioning welfare to work market which is diverse, sustainable and delivers effective services and value for money.

We asked how DWP can efficiently and effectively monitor and manage service quality. Many felt that the current system could be simplified and should be less bureaucratic, with one approach or standard adopted for the delivery of all provision – rather than separate reporting requirements for all. It was recommended that there should be a “wholesale review” of current systems, to ensure reporting mechanisms are streamlined in the future. Some felt that there are gaps in the current system, with no mechanism for partners and stakeholders to verify claims of partnership working made at bid stage or to feedback on their experience during live running. Many supported the adoption of minimum standards alongside quality monitoring. However, if minimum standards are developed, many felt DWP should work collaboratively with the industry and local partners to make sure that these standards can be monitored and are applied consistently in all areas.

A few respondents suggested the need for an independent complaints process and quality assurance system. In addition, there should be greater onus on DWP to share best practice across the industry including with local partners, providers and across wider geographic areas, sharing and encouraging innovation.

Many felt DWP should fully evaluate the current approaches and mechanisms used for driving performance (Market Share Shift, numbers of providers in each CPA).

Many supported the principle of Market Share Shift but felt that more work was needed to assess the impact before committing to this approach in future contracts. Many felt that all parties involved should have an early (i.e. at pre-procurement stage) clear, shared understanding of performance assumptions.

On provider capability, respondents were asked whether there were any provider capabilities not captured in the consultation paper. The general view was one of support for the capabilities captured. However, some requested a number of small additional points. They asked for a more specific requirement for providers to be able to respond to co-commissioning approaches and to identify and facilitate cross-departmental join-up. Some expressed the need for more emphasis and weight to be given to local / community engagement. It was also recommended that DWP should also drive up its own internal capability further.

When asked how DWP should design outcomes and service standards for the hardest-to-help or those furthest from the labour market, the following views were expressed. Benefit entitlement should not be the indicator used to determine the level of support an individual needs. The preferred approach would be segmentation based on individual needs. It was felt the Department should do more to develop new referral mechanisms. Insufficient funding was also seen to be one of the factors preventing providers supporting those furthest from the labour market and that more up front payments should be made with additional payments for intermediate outcomes.

It was also suggested that the costs of supporting those furthest from the labour market could be met by working collaboratively across government at a national level or locally with commissioning partners. Some suggested claimant choice should be built into more specialist provision – it was felt that random allocation sometimes means the individual is not able to receive the support they need and could have received from another provider who had a more diverse and specialised supply chain. Some felt that any approach for those furthest from the labour market should be co-designed (minimum standards and payment levels) and tested with those with relevant expertise in delivering support to these individuals and those with local expertise. In addition, it was suggested any approach should be stress tested or piloted first before implementation.

## **Working in partnership**

We see partnership and co-commissioning approaches as integral to our future commissioning activity. In practice, that means we will develop the incentives for our commissioners, partners and providers to work together – and supporting them to be capable, confident and open to a range of effective and efficient partnership models.

We asked respondents how DWP could become a more flexible partner, nationally and locally, and what the current barriers are to more effective partnership. Respondents felt that a more collaborative commissioning model should be developed. Currently there are issues over “double funding” – who should get paid for what outcome / who owns the outcome – where there are multiple funding streams. Some felt that there was some way to go to build up the mutual trust between funding bodies to enable true co-commissioning. Differing geographical boundaries, different government agency and departmental targets, different frameworks and commissioning timescales were all seen as barriers.

Some felt that Jobcentre Plus should have more flexibility locally with regard to commissioning. To overcome this, it was recommended Jobcentre Plus staff should be given the necessary time to develop partnerships and the training / skills to engage proactively. All of this should be introduced alongside a simplification of the internal DWP financial clearance processes.

Another view offered was the need for local partners to play an active role in determining the type of provision available locally and for DWP to make clear under the current range of geographic boundaries what it means by local – “local should mean local” – this point highlighted the differences between Jobcentre Plus boundaries and Local Authorities – with some Jobcentre Plus districts covering numerous Local Authorities. Commissioning at a local level should take account of the differences between areas and communities.

It was also suggested DWP should go further nationally in terms of cross government partnership when procuring provision, to remove the introduction of duplicate provision and to align requirements. Many also highlighted data sharing on current and potential customers as a key barrier to effective partnership working.

We asked how DWP can best consider social value through its commissioning. Many felt that social value should be aligned with the need to achieve value for money - it has to be an integral part of any procurement exercise. It was suggested DWP should highlight the Social Value providers offer through delivering DWP contracts - with the examples highlighted as best practice to build on in the future. One view was for DWP to articulate what it would find acceptable in terms of evidence and calculations for potential Social Value. Another felt DWP should do more to fully understand at every level what can be achieved through a Social Value “lens” and the full range of cross government benefits. One also felt that there needs to be a consistent approach in relation to Social Value across all government departments.

# Annex B: Organisations who submitted a response

The consultation exercise ran from the 31<sup>st</sup> July to the 27<sup>th</sup> September 2013. In addition to publishing the consultation paper DWP officials attended a number of meetings and forums and listened to views from a wide range of stakeholders. 92 formal responses were received.

A4e	Disability Rights UK
Accenture	Drugscope
ACEVO	Edinburgh Cyrenian Trust
AELP	ENABLE Scotland
AoC	Equality Commission for Northern Ireland
Avanta	Ethnic Minority Employment Steering Group
BASE	ERSA
Belina Consulting	Essex County Council
Bernardo's	Federation for Industry Sector Skills and Standards
Birmingham City Council	Fife Community Action
Bradford Council	G4S
BSA	Gingerbread
Capability Scotland	Give Us A Chance consortium
Capital City Employability Partnership	Greater Manchester Skills and Employment Partnership
Carley Consult	Help to Work partnership
Catch 22	Homeless Link
CBI	Incommunities Group Ltd
Citizens Advice Bureau	Institute for Government
Community Links	Interserve
Core Cities	

Jobsteps & Autism Plus (The Adsetts Partnership)	Recruitment and Employment Confederation
Kirklees Council	Reed
learndirect	Relationships Alliance
Lesbian & Gay Foundation	RNIB
LGA	Sarina Russo
Liverpool City Region Employment and Skills Board	Scope
Locality	Scottish Government
London Borough of Newham	Seetec
London Councils	Shaw Trust/ CDG
Manchester College	Skills and Work Solutions
Merlin Advisory Board	Skills Training UK
Merthyr Tydfil Institute for the Blind	Slough Borough Council
Midland Heart	Social Enterprise UK
National LGB&T Partnership	Social Firms UK
NAVCA	Southwark Borough Council
NCVO	St. Mungo's
Newcastle College Group	Steps to Work (Walsall)
NIACE	The Lennox Partnership
NPC	Third Sector Employability Forum
Oxfordshire County Council	Triage Central Limited
Pembrokeshire Communities First	Turning Point
Pertemps (PPDG)	Twist
Pluss	Unemployed.net
Policy Exchange	W2W Solutions / Stephanie Barlow
Prevista	Welsh Government
Prince's Trust	Wise Group
Prospects	Your Housing Group

# Annex C: Core provider capabilities

- Financial strength/access to capital together with an investment strategy
- Ability to bring in expertise from other organisations/sectors
- Ability to lever in other resources to enable programme management with partners
- Effective strategic partnership working
- Supply chain management and development
- Programme and project management
- Commercial acumen
- Local credibility and outreach capability
- Ability to work effectively with other delivery partners, including those in the public sector
- Rigorous performance management
- Case management to assist people, particularly disadvantaged people, into sustained employment
- Strategic employer engagement to provide suitable and sustained jobs and a sound employer-facing infrastructure
- Local labour market knowledge and identification of skills needs and job opportunities
- Specialist understanding of sources of disadvantage and strategies to overcome it for all customer groups based on evidence
- Capacity and capability to respond to changing economic conditions
- Assessment of jobseeker needs, and flexibility and personalisation in assisting them into employment
- Excellent customer experience
- Investment by providers in the development of their own staff and their supply chains

# Annex D: Code of Conduct

## Values

The Code of Conduct is underpinned by a set of core values to be upheld by top-tier and delivery providers. They should:

- act with integrity;
- have respect for their partners (actual and potential), including the use of fair contracting and funding arrangements;
- ensure transparency, non-discrimination, equal treatment and accountability in relationships between both parties;
- ensure prompt and receptive responses to market place issues and challenges;
- encourage the sharing of good practice;
- promote equality and diversity in their own workforce and their supply chain; and
- be committed to achieving the best possible outcomes for our customers.

## Pre-awarding of contract

- Sub-contracting opportunities should be advertised as openly and widely as possible.
- Application processes at the sub-contracting level should be open and fair, as simple as possible, consistent, and in proportion to the size of contract.
- Short listed top-tier providers cannot insist that potential delivery providers negotiate only with them and not their competitors.
- There will be no “poaching” potential delivery provider staff during sub-contracting negotiations.
- Top-tier providers should ensure transparency in providing timely feedback to unsuccessful delivery providers.
- Both parties should agree the terms of delivery at the outset and with additional agreement on how risk is to be allocated.
- Top-tier providers with longer contracts will offer contracts to delivery providers of sufficient length (subject to performance) to enable long-term planning and investment.
- Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks. All providers will need, through

the contract tendering process, to offer prices and have plausible expectations of what they can deliver, so that they are in a position to recover their costs.

## Post-awarding of contract

- Top-tier providers will live up to any commitments they make to delivery providers at the time of contract award.
- Monitoring requirements and management information should not be overly bureaucratic and should be consistent, proportionate, clearly specified and agreed at the start of the contract.
- Neither top-tier nor delivery providers will engage in restrictive practices such as colluding on price.
- The development of smaller providers will be supported and encouraged.
- The top-tier provider should provide a reasonable level of extra support for new entrants into the market.
- There should be transparency between top-tier and delivery providers about decisions or referrals of customers including the level and type of support needed.
- Timing of payments should be consistent and agreed with both parties, to ensure the level of risk is minimal on the delivery provider.
- Top-tier providers should consider making payments in advance of expenditure (where appropriate and necessary) in order to achieve better value for money.
- There will be open lines of communication between providers to ensure any issues are resolved as soon as they arise as far as is practicable.
- Contracts between top-tier/delivery providers will allow a sufficient termination period, which will be agreed at the outset.
- Top-tier providers should not seek to obstruct or prevent delivery providers from presenting reasonable strategic or operational grievances to DWP.

## Equality and diversity

- All providers will have effective equality and diversity policies and will abide by DWP policy on equality and diversity where relevant and proportionate to the contract.
- Top-tier and delivery providers should promote diversity and equality in their ways of working, in relation to their own staff, their supply chain and in the delivery of services.

### **DWP will undertake to:**

- uphold these standards as a good commissioner;



- monitor and enforce the Code of Conduct consistently and fairly;
- allow a sufficient period of time for short-listed organisations to fully develop their tender proposals, including development of partnership and consortia arrangements. In the case of larger procurement exercises this will not generally be less than 12 weeks;
- act as stewards of the supply chain in its initial stages supporting providers and Contract Managers in the implementation activity from contract award through to live running;
- actively promote awareness of and adherence to the Code of Conduct by top-tier providers and delivery providers;
- provide a grievance route for delivery providers who believe that the Code of Conduct is not being adhered to; and
- ensure that delivery providers can have a ‘voice’ direct to DWP, not just as a vehicle for talking about common problems, but as an opportunity to share insights that are best understood by those dealing with our customers.

## TUPE

- DWP will request that all tenders that are submitted include a statement as to whether they believe TUPE applies or not. Whether or not TUPE applies in any specific set of circumstances is ultimately a matter for the courts. It would not therefore be either possible or proper for DWP to make a definitive statement on its applicability.
- DWP will facilitate where necessary the exchange of full and complete TUPE information during the tendering process and between out-going providers of the service and the incoming service provider. We shall expect the transferor and transferee to reach agreement on compliance with the information provisions of TUPE and will not be offering any warranties as to the completeness of any information where we facilitate exchange (since we have no way of assuring this).
- DWP will consider carefully the implications of contracting with a provider who is offering non-TUPE terms. Where an organisation had assumed it did not apply, we would want to explore the extent to which risks arising from that – including risk of their view being overturned in court – had been mitigated. We are prepared to disregard TUPE costs in deciding on contract award, but would not get involved in subsequent disputes between the new supplier and the old.

**DWP or providers may from time to time propose amendments or developments to this Code, which will be the subject of consultation before any changes are introduced.**