

Withdrawn

This publication is withdrawn.
The publication is no longer current.

Section 13a (2017) Working with Supported Businesses

This Section pertains to all referrals to Work Choice during the contracts' extension period in England and Wales effective from April 2017; specifically from 25th April for contracts originally awarded in 2010, and from 7th April for Remploy.

For guidance pertaining to all referrals to Work Choice made prior to this extension period please see the previous version of Work Choice Provider Guidance which has been retained on GOV.UK for reference:

<https://www.gov.uk/government/collections/dwp-provider-guidance>

This section of Work Choice Provider Guidance does not apply to Remploy Ltd

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Introduction

- 13.1. **Note 1:** This section must be read in conjunction with your Contract Schedule on Supported Businesses including any Variations. If there is any conflict between the contract and this guidance the contract takes precedence. If there is any conflict between the ITT Specification and this guidance in relation to DWP's internal procedures and processes, this guidance takes precedence.
- 13.2. **Note 2:** Much of this section, addressed to you the Prime Provider (Prime), is broadly duplicated in the next section ([Section 14](#)), which is addressed to Supported Businesses themselves. You must ensure all Supported Business in your Contract Package Area have access to, and read, this Guidance and particularly [Section 14](#).

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- 13.3. Please see your contractual terms and conditions for a description of the contractual relationship between yourself, the Prime Provider, and any Supported Business which has protected places as a result of pre-existing WORKSTEP contracts. Confirmation of status as Supported Business and the number of protected places has been validated by DWP.
- 13.4. The DWP Commissioning Strategy imposes minimal constraints around the dynamics of Prime Provider led supply chains. Within the Work Choice contract, protected places agreed within Supported Businesses are positioned within the funding package and are therefore subject to contractual requirements and expectations within the Prime contract.

Contractual Obligations

- 13.5. As the Prime Provider you are responsible for the contractual relationship and interface with DWP. This includes responsibility for Supported Businesses with whom you are required to have a direct sub-contractual arrangement as part of the contract.
- 13.6. Some Primes may own a Supported Business. In this case the terms of the contract will remain the same.
- 13.7. The total number of Supported Business protected places within each CPA has been agreed with DWP and forms part of the main contract. These numbers will increase if DWP approves requests for additional places or reduce if Supported Businesses do not fill vacant protected places after a specified period of time or if they cease trading as a Supported Business.
- 13.8. In the event of an increase or reduction in the number of Supported Business places, the funding allocated to protect those places will be modified accordingly. DWP will make decisions regarding any unallocated funding. It should not be assumed that any funding will automatically be retained by the Prime Provider or a particular CPA.
- 13.9. You are contractually required by DWP to manage a direct sub-contractual arrangement with the Supported Business for protected places under the terms of the Prime contract. This arrangement may take the form of a legally binding agreement or memorandum of understanding between yourself and the Supported Business.
- 13.10. You are not permitted to transfer these obligations to a third party through other sub-contractual arrangements; although you may have sub-contract arrangements in place to deliver appropriate support that facilitates the Supported Business to achieve their contractual requirements, e.g. support required by a Work Choice participant in Module 2 or 3 which would not otherwise be provided by the Supported Business for their employees.

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- 13.11. As the sub-contractual relationship between the Prime and the Supported Business is directly specified by DWP, any significant changes regarding the relationship must be discussed with your DWP Performance Manager and the Disability Employment Provision Policy Team Lead before action is taken.
- 13.12. You must be clear that, under the terms of your contract, your responsibilities extend ONLY to those participants who are on the Work Choice programme, and not to any other employees of the Supported Business.

Customer and Employer Relationship

- 13.13. For participants that transferred into the Work Choice contract as Protected Places, the Supported Business is the employer. You should therefore not only interface with the Supported Business under the requirements of the contract, regarding payment and quality assurance, but could also develop a relationship with the Supported Business as an employer in its own right.

Financial Obligations

- 13.14. You will be given guaranteed funding corresponding to the Protected Places within the overall contract package area for the contract extension period. This commitment to the Supported Business would remain in place should there be any change of Prime within the contract extension period.
- 13.15. Supported Businesses will receive guaranteed financial payment for each protected full time place of £4,800 per annum. This payment will be made until at least 31st October 2018, but you should consult your contract variations if appropriate.

Note 1: in this context, for WORKSTEP participants who occupied a protected place within a Supported Business and transferred to Work Choice in October 2010, 'full time' continues to be defined as working 21 hours and over. (This definition applies only to WORKSTEP participants who transferred; participants who start under the Work Choice programme are defined as full time when working 16 hours and over).

Note 2: Cases will be treated on their own merits in circumstances where hours reduce below 21 hours but not below 16 hours. You will need to speak to your Performance Manager in this instance. All relaxed cases must be documented and the signed authority from the Performance Manager should be kept on the participant's file.

- 13.16. You are required to make direct full payments to the Supported Business of £4,800 per annum per full time equivalent place (FTEP) until at least 31st October 2018, under the terms specified in the Contract including any variations, the Specification and the Provider Guidance. The Supported

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Business can only expect to receive guaranteed financial payments up to the level of protected places agreed in the contract including any subsequent variations.

- 13.17. The payment transfer will be agreed as part of the sub-contractual arrangement between the Prime and Supported Business. Payment terms can be negotiated and agreed between the two parties but as a minimum should mirror timescales for payment of monies to Primes by DWP. You must agree how and when this payment is made.
- 13.18. As part of normal business planning activity, you and the Supported Business should consider in advance the implication that contract arrangements based on guaranteed funding are not certain beyond the contract extension period. **Work Choice provision ends on 31st October 2018 in Scotland and 31st March 2019 in England and Wales.**

Quality and Customer Service Obligations

- 13.19. You must work with the Supported Business to ensure that the quality of provision and customer service for the participants meets the quality and customer service obligations within the main Prime contract and the service delivery requirements relevant to the modules (performance, quality, equality, and legislative standards) as detailed in the relevant sections in this guidance. Where Work Choice delivery requirements are over and above the support the Business would normally provide as an employer, the Prime must ensure the support is delivered to the participant.
- 13.20. You are responsible for the participants' support needs and must monitor and ensure the service provided to Work Choice participants within any Supported Business is in line with the quality and customer service expectations of the main contract, whether delivered by the Prime Provider, Subcontractor or Supported Business.

Merlin Standard

- 13.21. DWP has worked with suppliers to develop the Merlin Standard during the procurement process. This new Standard provides a means of assessing the success of supply chain behaviours equally through procurement rounds and once contracts are implemented.
- 13.22. The Merlin Standard underpins the contractual requirements of the Code of Conduct which is already part of the Prime contract. Additionally it links to a mediation and arbitration service where there is evidence that suppliers are acting in breach of the contractual obligations of the Code of Conduct.
- 13.23. Further information will be found via this link: [The Merlin Standard publication page](#)

Performance

- 13.24. Performance is your responsibility.
- 13.25. The ethos of the Work Choice programme is one of independence and progression for all participants who have the potential to progress and who feel able to progress. You are required to formally agree with your Supported Business(es) minimum targets for progressing participants into unsupported employment. Annual minimum targets are expected to be in the 5% to 10% range of participants within each Supported Business.
- 13.26. Please note these targets will not reflect the headline performance targets for your contract, but form a part of those targets at a level appropriate to this customer group.
- 13.27. It is expected that you will negotiate progression rates with each individual Supported Business, taking into account the size and makeup of each Supported Business workforce. The expectation of progression needs to be made particularly clear to new entrants into protected Supported Business places that have been placed with Host Employers with a view to movement into unsupported employment, possibly using Access to Work (AtW) programme funding.
- 13.28. For those participants whose progression option is to leave the Supported Business in order to enter unsupported employment, you must work closely with your Supported Business and make available all necessary resources to assist them and the participant. You, the Prime, are responsible for providing job search support, if the participant wishes it.
- 13.29. Supported Businesses provide positive opportunities for participants and may be able to expand their role, if the Prime agrees, over and above any guaranteed funding places, if you are satisfied that they have the capacity and resources to do so. They can also place participants with Host Employers outside their own organisation for a defined period and by prior agreement with the Prime and the Disability Employment Provision Policy Team. Moving these participants into unsupported employment will count towards progression targets. The terms and conditions of any sub contractual arrangement, beyond the guaranteed places and funding, is purely a matter for agreement between yourself and the Supported Business.
- 13.30. Should a Supported Business cease trading or significantly change its business model during the extension period to which the contract applies, you will be required, at the earliest opportunity, to discuss the impact with DWP Performance Managers and the Disability Employment Provision Policy Team (who will seek advice from commercial specialists and legal teams) in respect of any re-allocation of funding, including the priority to continue to support any participants affected.

Protected Place Occupants Placed with Host Employers

- 13.31. DWP recognises the value of a Supported Business placing Work Choice participants with Host Employers as a way of moving them towards an unsupported work environment.
- 13.32. From the 25th of October 2015 you must make a request to the Disability Employment Provision Policy Team for any occupants of Supported Business Protected Places you wish to place into Host Employment using the appropriate form.

[Form: request protected place move to host employer](#)

- 13.33. **But please note:** for participants in protected places placed with a Host Employer after 25th October 2015, the normal maximum period of 26 weeks, previously stipulated, is now relaxed. Given that the demand for a Protected Place is declining, now that there are no more new participants entering the programme, **DWP will allow participants occupying a Protected Place a longer period of Hosted-Out support**, if they would benefit from such support.

NOTE: the duration of any hosted-out placements will necessarily be curtailed as Work Choice provision draws to a close.

- 13.34. In order to further support Work Choice's final participants to achieve their goal of progression into unsupported employment the Disability Employment Provision Policy Team will routinely allow an extension to the 26 week hosted-out period.
- 13.35. This being so, you are no longer required to formally request extensions for hosted-out occupants of Protected Places. You may allow such participants to benefit from hosted-out arrangements for as long as the participant needs it **up until the end of Work Choice provision** (March 2019 where possible). You **must**, however, **notify** the Disability Employment Provision Policy Team in every case, using the form below, and ensure that the reasons for an extended period of hosted-out support are recorded in your notification and fully documented in your participant's Development Plan.

[Form: notification of extension of 26 week placement](#)

- 13.36. EASEMENT: As noted in **Sections 5 and 7** of this Guidance, in this final period of the Work Choice programme (i.e. now that no new programme referrals can be made) Module 2 extensions may be approved until the end of the provision (March 2019 where possible) even if it may be longer than two years in all. You should submit a request to your Performance Manager as outlined in Section 5.

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13.37. **EASEMENT:** Additionally, as detailed in Section 7 of this Provider Guidance, if a participant should lose their supported job prematurely (including any hosted-out position), and cannot be accommodated in the Supported Business itself, you are no longer required to exit them from your Work Choice programme immediately. Performance Managers may allow the participant to remain in the programme for additional time, if the participants wishes it, to allow you and the Supported Business to actively source an alternative placement for your participant which will allow them to resume occupancy of their Protected Place. **(Please refer to Section 7 for full guidance).**

NOTE: you must declare the Protected Place as unoccupied in the interim.

13.38. There are 3 possibilities when a participant is placed with a Host Employer:

- The participant subsequently moves into unsupported employment. The Protected Place is vacated and the vacancy filling process begins; or
- The participant returns to the Supported Business and remains in the Protected Place. You will notify the Disability Employment Provision Policy Team and the place will remain occupied; or
- The participant doesn't move into unsupported employment or return to the Supported Business, but leaves the programme. The Protected Place will be vacant and the vacancy filling process will start.

Monthly Supported Business Protected Places Return

13.39. You should inform the Disability Employment Provision Policy Team of any changes of circumstances regarding participants occupying Protected Places, including those placed with Host Employers via the monthly **Supported Business return form**.

[Form: supported business return form](#)

13.40. From December 2017 DWP must receive this form by close of business on the 20th of each month, or close of business on the last working day prior to the 20th should the 20th fall on a weekend or public holiday. DWP will not pay for any protected place for which the supporting evidence, as requested on the monthly Supported Business return, is not supplied.

NOTE: This form was updated in March 2018, it no longer requests Protected Place occupant's personal information and therefore does not need to be PGP encrypted. However, any communications with DWP which does contain participants' personal information must still be emailed

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to the Employment Provision Policy Team using PGP encryption. You must e-mail this form to: ELVIRA.MARTIN-DE-LA-VEGA@DWP.GSI.GOV.UK and DISABILITYEMPLOYMENTPROVISIONPOLICY.ENQUIRIES@DWP.GSI.GOV.UK

Failure to use PGP encryption will result in a security incident being created as per [Generic Guidance Chapter 8 Information Security](#); please refer to this chapter for further information or as appropriate.

- 13.41. If the Disability Employment Provision Policy Team does not receive the Supported Business Return form by the deadline set out in paragraph 13.40 then DWP will not make any payment in respect of Protected Places Funding calculated on the basis of the form as part of that month's Service Fee.
- 13.42. When the Disability Employment Provision Policy Team receives the Supported Business Return after the deadline set out in paragraph 13.40 has passed then DWP will make any payment due in respect of Protected Places Funding calculated on the basis of the form as part of the following month's Service Fee.

It should be noted that if the Disability Employment Provision Policy Team does not receive the completed Supported Business Return or receives the Supported Business Return after the deadline set out in paragraph 13.40 then you are still obliged to pay the Supported Business in accordance with Schedule 15 of the Work Choice contract.

- 13.43. You should inform your Performance Manager of any requests made to DWP Disability Employment Provision Policy Team by copying them in to the email.

Filling Vacant Protected Places

- 13.44. When a protected place becomes vacant, it is the responsibility of the Supported Business to notify you promptly and appropriately. The need for replacement can frequently be foreseen well in advance of the place becoming vacant. You must respond to this notification as a matter of priority.
- 13.45. Upon receipt of notification of a vacant place you must ensure your Monthly Protected Places Return is amended accordingly.
- 13.46. It is the joint responsibility of you, as the Prime, and the Supported Business to identify a replacement employee to fill a vacant Protected Place.

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- 13.47. It may be good practice to seek a suitable replacement within Module One of your programme, but the candidate would have to be a suitable employee for the Supported Business. Ultimately, the choice of employee is a commercial decision and rests with the Supported Business.
- 13.48. Any Work Choice participant may be considered for a vacant Protected Place. To be clear, this means that Work Choice participants can be sourced to fill vacant Protected Places from any contracted provider delivering Work Choice in that Contract Package Area (this includes Remploy Ltd, if present in that CPA).
- 13.49. Work Choice participants may also choose to change employers whilst continuously supported by Module 2 or 3 and this can include a move into, between, or out of a Supported Business. Guidance on changing employers will be found in Section 7 of this Provider Guidance.
- 13.50. To ensure the Supported Business can reach every Work Choice participant with the potential to fill their vacancy, you must routinely pass details of these vacancies to any other Work Choice provider in that CPA. This is particularly important now that new referrals to the Work Choice programme have ceased.

NOTE: We do not expect to issue detailed guidance on how you should network locally with other Work Choice contract holders in your CPA, but we strongly recommend you obtain assurance that any candidate put forward for a vacant Protected Place is a confirmed Work Choice participant i.e. has a PO number issued via PRaP. A full list of Work Choice Prime Providers is at Annex 10 of this Guidance.

- 13.51. The Supported Business selects their employees; responsibility for ensuring the potential employee is eligible and suitable for the Work Choice programme depends on entry route i.e. via the DEA or Statutory Referral Organisation. Responsibility for attaching the participant to the programme, via PRaP, lies with the Prime who has received the programme referral (the “owning” Prime).
- 13.52. As stated in Work Choice Live Running Memo 59, should the Supported Business select a candidate who is attached to another Prime’s programme, that Prime (the “owning” Prime) will remain responsible for supplying any individual support required by their Work Choice participant which would not otherwise be provided by the Supported Business for their Protected Place employees. You should be clear, the participant does not move providers. If they take a job in a Supported Business they remain with their original “owning” provider.
- 13.53. For those participants whose progression option is to leave the Supported Business in order to enter unsupported employment, the Prime who “owns” the participant must work closely with the Supported Business and make available all necessary resources to assist them and their

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participant. The “owning” provider is responsible for providing/sourcing job search support, if the participant wishes it. Any appropriate Job Outcome will be claimed by the “owning” Prime.

- 13.54. You should be clear, DWP would not find it acceptable to continuously turnover the employee base with Work Choice participants merely as a means of enabling Job Outcomes and subsequent payments to be claimed. The Strategic intent of the Work Choice programme is to place participants into sustained employment either within the Supported Business or in alternative employment.

Timescale for filling Work Choice Protected Places

- 13.55. The timescale for continuing to receive and pay guaranteed funding payments when a Protected Place becomes vacant takes into account the need to find an eligible, suitable replacement and is as follows.
- 13.56. To reflect the work that the Supported Business may have to do with the Prime to find a suitable replacement, you will continue to make the monthly protected place payment for up to thirteen weeks from the date the occupant left.
- 13.57. After this, if the place is still unfilled it can remain categorised as Protected for a further thirteen weeks (i.e. twenty-six weeks in total), while a replacement is sought, but you are not required to make any further payment after thirteen weeks until a new participant has started.
- 13.58. You will continue to receive the Protected Supported Place payment for the first thirteen weeks, but you must ensure the Disability Employment Provision Policy Team is notified of the situation via your monthly Supported Businesses Protected Places return, so they can adjust the level of payment to you at the end of week thirteen. If you cease payment you must immediately notify the Disability Employment Provision Policy Team by phone and confirm in writing.
- 13.59. Although in this second thirteen week period no payment is made you must ensure that you and the Supported Business continue to give priority to exploring every avenue to engage with prospective replacement participants.
- 13.60. Should the place be unfilled after twenty-six weeks have elapsed, the protected supported place will be regarded as lost and no further payment will be made. However DWP may exercise discretion. Any request to extend the 26 weeks period should be sent to the Employment Provision Policy Team by e-mail. Upon receipt of the request DWP will make a decision before the place reaches week twenty-six when the protected place will be lost.

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NOTE: DWP reserves the right to reduce the twenty-six week period before a protected place will be regarded as lost. DWP will notify you of the length of the shorter period and that shorter period will apply to any protected place which is unfilled at the time of, or after, DWP gives the notification.

- 13.61. Supported Businesses are not obliged to give priority to filling protected places if it is not the interest of their business needs .i.e. they are not prohibited from employing new Work Choice participants into any additional non-protected places. However you must remind them of the risk to the protected place if you and they fail to fill it within the time allowed.
- 13.62. Supported Businesses must provide you with regular information regarding filled and unfilled protected places to support the receipt of payments as detailed in the contract.
- 13.63. This is particularly important if / when a vacant protected place reaches the unpaid stage at thirteen weeks (detailed above), as you must monitor the situation closely to avoid losing the place. You must keep The Disability Employment Provision Policy Team informed of the on-going status of vacant protected places via your monthly Protected Places return.
- 13.64. If you are responsible for more than one Supported Business you may make a request to the Disability Employment Provision Policy Team to reallocate unfilled protected places among Supported Businesses within your CPA, provided you have the formal agreement both of the importing and exporting Supported Business.
- 13.65. DWP will make a decision before the place reaches week twenty-six when the protected place will be lost. You can make a request to reallocate protected places within your CPA to The Disability Employment Provision Policy Team via the form, below. Your Performance Manager should be informed of any change in the number of places in a Supported Business.

[Form: transfer within contract package area](#)

- 13.66. You must also issue a formal letter to both the importing and the exporting Supported Business confirming the changed allocation of protected places, and send a copy to your Performance Manager.
- 13.67. If you have no free places to reallocate, you may request additional places on behalf of your Supported Businesses using the form below. Requests will be considered on a case by case basis and will depend on availability of places. Further allocation will depend on your business case and availability of places. Please be aware that requests for additional Protected Places after February 2018 will be considered by exception only

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and will require a compelling business case. Restoration of any place which was voluntarily relinquished cannot be guaranteed.

[Form: additional places request](#)

13.68. When you succeed in filling a vacant protected place you must ensure your monthly Protected Places Return is amended accordingly.

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