

## **A mid-term review of third sector involvement in the Work Programme**

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## A mid-term review of third sector involvement in the Work Programme

### Introduction

This paper presents a midterm review of third sector involvement in the delivery of the Work Programme. The Work Programme is a major national employment scheme and forms a central pillar of the Department of Work and Pensions' (DWP's) attempts to reform the UK welfare system. The process through which provision has been contracted out to independent providers also embodies many aspects of the Coalition Government's wider approach towards public services and commissioning (HM Government, 2011). As such, the Work Programme constitutes an important case, not only for those interested in the experiences of TSOs within employment services, but in public services reform and the third sector more generally.

This article builds upon an initial evidence review conducted around the time of the programme's launch, which focussed on the third sector's role within UK employment services since 1997 (Damm, 2012). The findings of that earlier review revealed a high level of concern within parts of the third sector over the Work Programme's design and tendering process. Several features that TSOs had found problematic under previous employment programmes were due to be rolled out and expanded (i.e. NAO, 2010a; 2010b). The initial evidence review also concluded that despite repeated calls for more evidence within a UK context (TSTF, 2009; Aiken, 2007; WPC, 2009), the research base in this area remained underdeveloped (though see Bredgaard and Larsen, 2008; and Wright et al., 2011 for examples of international literature).

The Work Programme therefore provides a significant opportunity to improve our understanding of the third sector in this field. Two and half years into the programme's operation, it is useful to review any additional evidence that has emerged and assess whether the early concerns have developed as anticipated. This will allow us to judge the extent to which third sector fears were justified and help to consolidate the available lessons for policy and practice. This 'stock take' of the available evidence will also help to suggest targets for future research.

The following sections provide some theoretical and policy context to the Work Programme, an account of the literature reviewing process, and a brief outline of the programme's design. The next sections then critically consider three issues that have been linked to the third sector in public and

academic debate. These are the idea of a third sector 'squeeze', mistreatment of subcontractors by prime providers, and the programme's performance over the first two years. The conclusion summarises some of the key points, reflects upon the implications for the third sector and makes recommendations for future research.

## Background

In general terms, employment services are interventions delivered to unemployed individuals, usually in receipt of out of work benefits, to help them find a job. From 1997, the New Labour government increasingly contracted out services previously delivered by public agencies, echoing the previous Conservative government's reforms in local community social care (Lewis, 1993). Early on, this was relatively small scale and providers delivered services similar to those of their public sector counterparts (Finn, 2009). As contracting expanded, however, contractors were gradually given more autonomy and paid according to how many individuals they helped to find employment (payment by results). By the time DWP introduced a new commissioning strategy in 2008, it described contracting as 'business as usual' (DWP 2008a, p. 11) and claimed it was worth over £1 billion annually (DWP, 2008b).

At the same time, the substance of employment services was changing. Payment by results frameworks implicitly encourage a 'work first' paradigm by incentivising short term, high turnover interventions aimed at getting benefit claimants into some form of employment as quickly as possible (Griffiths and Durkin, 2007). Interventions include CV and interview training, job-brokering and short term placements (e.g. Vegeris et al. 2011, p. 41). Increased 'conditionality' for the receipt of benefits also meant that participation was increasingly mandatory.

The third sector was encouraged to participate in this agenda as part of New Labour's wider enthusiasm for working in 'partnership', as codified in the 1998 Compact (Lewis, 2005). TSOs secured a reasonably large share of the new employment services contracts, some capitalising on their history of working with disadvantaged groups. In the New Deal for Disabled People job broker scheme, for example, the sector secured 42% of contracts (Stafford et al., 2007).

In order to reduce the level of administration and risk the DWP faced through commissioning, however, and in accordance with recommendations from the Freud Report (2007), employment services were eventually consolidated into 'prime' contracts (DWP, 2007a; WPC 2009). This delivery model relies on fewer, larger 'prime contractors', who can then potentially subcontract local or specialist provision (DWP, 2008b). TSOs appeared to struggle to secure these larger contracts (Macdonald et al., 2007). This left many smaller or specialist TSOs to seek subcontracts by 'selling' their contribution to prime providers, within a payment by results framework. Reports of negative experiences began to accumulate (WPC, 2009; WPC, 2010). Subcontractors complained about late payments from primes, high management fees, micromanagement, excessive risk transfers down supply chains, and primes monopolising business in house (WPC, 2010, 2011; NAO, 2010b).

When the 2010 Coalition government announced the consolidation of most national employment schemes into a single programme, therefore, it did so against a backdrop of considerable concern within parts of the third sector (WPC, 2011). Nevertheless, the Coalition government seemed keen to promote TSOs' involvement, albeit at the subcontractor level. The DWP hailed the presence of over 300 third sector subcontractors in primes' bids as a "triumph for the big society" (DWP, 2011a). Chris Grayling, the then employment minister, referred to the list as a 'who's who' of the charitable sector (in Third Sector, 2011). The third sector has also remained rhetorically in favour more widely as part of the Big Society agenda, which included a pledge to support third sector participation in contracting (PASC, 2011).

The Coalition's 2011 Open Public Services White Paper, however, contained no specific measures to support TSOs, and professed no 'ideological presumption' towards any one sector (HM Government, 2011). Some have also suggested that other potential means of support, such as the Public Services (Social Value) Act 2012, were watered down to ensure that no specific advantage was provided to third sector providers (Teasdale et al., 2012). The emphasis of Government policy has therefore shifted away from the idea of any group of providers offering distinctive added value, towards the benefits of competition, diversity and the commissioning process itself (Rees, 2014). In the Work Programme, commentators from the media (Butler, 2011; Toynbee, 2011), policy and academia (Crisp et al., 2011; WPC, 2011; Bennett, 2012), and representatives of third sector itself (NCVO, 2012), have all suggested that despite the rhetoric, the third sector has been squeezed out of a central role.

If true, then these issues feed into theoretical discussions surrounding the role and experiences of TSOs in a mixed economy of welfare. As Julian Le Grand pointed out two decades ago, the presence of non-profit providers are part of what distinguishes quasi-markets from their regular counterparts (1991). At the same time, their inclusion creates ambiguity over how classical market assumptions will function: "It makes little sense introducing a market to create profitable opportunities if the participants in the market are not interested in making profits" (Bartlett and Le Grand, 1993, p. 30). In addition, evidence that contracting improves outcomes is also sparse (WPC, 2009; Davies, 2008; Audit Commission, 2007), and a great deal of scepticism was raised prior to the Work Programme's launch over whether it would provide significant benefit to users (Mulheirn, 2011a; NAO, 2012). It is therefore debatable whether TSOs' participation in such schemes offers a significant payoff to either themselves or their users, given the potential costs.

Carmel and Harlock (2008) have suggested that third sector participants in contracting succeed only in supporting a neo-liberal agenda, concerned with spreading market forces to ever more areas of social life. Others suggest that TSOs are the 'outriders' or acceptable face of privatisation (Cleeveley, 2006 in Davies, 2011). There is a risk, therefore, that by participating in such an agenda, some TSOs sacrifice their claim to help form an independent sector with a distinct ethos and identity. Aiken and Bode (2009) record through a case study approach the risk of organisations moving towards a short term focus on results and formal accountability, over traditional community links. This reflects a much wider literature warning of the potentially negative effects of contracting on the autonomy and financial security of TSOs (Lewis, 1996; Morris, 1999; Seddon, 2007; Cunningham and James, 2007).

The remainder of this paper will therefore help to assess these concerns in the context of third sector involvement in the Work Programme, both in terms of the impact on TSOs themselves and their contribution towards tackling unemployment.

### Literature review strategy

The scope of the initial evidence review included all UK literature with a substantive focus on third sector involvement in government funded employment programmes (Damm, 2012). The search strategy combined a mixture of key word searches using search engines and academic databases, supplemented by snowball sampling using references. With some exceptions, previous academic attention in the UK has been limited, and although the situation is now changing, much of the available literature was from policy and practice. DWP programme evaluations, government command papers and press releases provided much of the historical policy context, albeit from a clearly promotional perspective. Reports from bodies such as the Work and Pensions Committee (WPC, 2007, 2009, 2010, 2011) and National Audit Office (NAO, 2010a, 2010b) also provided both original evidence and important critical commentary, while TSOs and their representatives produced a range of reviews and initial surveys, largely aimed towards lobbying policy makers (NCVO, 2011; ACEVO, 2011).

Since the Work Programme's launch, the empirical data available has increased significantly and was included on the same basis as above. As well as further useful contributions from the WPC (2013) and NAO (2012), limited amounts of performance data have now been released alongside the initial findings of the DWP evaluation (Newton et al. 2012; Lane et al., 2013). The latter provides valuable qualitative detail, though with a typically technical focus. Further surveys by third sector umbrella organisations have also been published based on TSOs' actual experiences of delivery (e.g. NCVO, 2012). Finally, original and independent qualitative research has also been undertaken: previously a major gap in the literature (Rees et al. 2013; Bennett, 2012).

## The Work Programme: key features

The Work Programme launched in July 2011 and has a number of notable features, many of which were developed or proposed during New Labour's time in office (see DWP, 2008b), but have been implemented on a larger and accelerated scale.

### Key features include:

**Single programme:** The Work Programme replaced a plethora of existing schemes for different out-of-work benefits, and commissioned providers to work instead with the full range of claimant types.

**The prime model:** England, Scotland and Wales are divided into 18 contract package areas (CPAs). In each area, long-term out-of-work benefit claimants are randomly allocated to one of 2 or 3 prime contractors.

**Payment by results:** Providers receive only a small attachment fee for referrals and the first significant payment is received only once a 'job outcome' is achieved: usually when a user achieves employment for a period of 26 weeks (sometimes 13). Further payments are received if this outcome is sustained over a longer period. Around 90% of primes' payment is therefore outcome dependent, a significant increase compared to previous schemes (DWP, 2011b).

**Differential payments:** In order to address concerns in previous schemes that some clients were being written off and neglected by providers, payment fees were set at a higher level for some groups of users (customer groups) depending on their current and previous benefit type.

**Black box approach:** In return for the considerable risk adopted by providers, they were promised flexibility over how they designed and operated their services. They were also given a longer (two-year) period with which to work with clients.

**Competition:** Whereas the Work Programme's predecessor, the Flexible New Deal, had elements of user choice built into the design, referrals between primes within CPAs are entirely random. This allows an unbiased comparison of their performance, and the DWP has the contractual option to reallocate market share to the better-performing primes via the referrals mechanism.

**Minimum performance targets (MPTs):** Primes were set challenging minimum targets, below which they would be in contractual breach and unlikely to break even. DWP set MPTs for job outcomes 10% higher than they predicted would have occurred without the Work Programme.

**Supply chains:** Different organisations fulfil a variety of roles within the Work Programme. It is helpful to distinguish between three broad groups, despite a slightly more complex reality. These are primes, tier one, and tier two providers. As noted above, primes hold contracts directly with the DWP and receive referrals from the Job Centre Plus (JCP). They can deliver support in house or subcontract to 'tier one' providers. Both primes and tier one providers generally take responsibility for the user throughout the ensuing two-year period or until a sustained job outcome is achieved (end to end provision). They also generally work with all of the different customer groups.

End to end providers then have the option to refer users to 'tier two' subcontractors, which provide specific, ancillary interventions. These include assessments, short training courses and treatments for addiction or health problems. Tier two organisations often specialise in a particular client group

such as the elderly, ex-offenders or people with disabilities; and in contrast to tier ones they are not generally guaranteed any flows of referrals. A model of the supply chain principle is shown in Figure One below (see also Rees et al., 2013).

**Figure One: Supply chain model**



### Has the third sector been squeezed out of delivery?

One of the first concerns raised about the Work Programme was whether or not TSOs were being systematically disadvantaged during the commissioning process. A report by the Work and Pensions Committee (WPC) pointed out that previous moves towards the prime model led to a reduction in the number of TSOs able to take on contracts directly with the DWP, even when they had a successful history of doing so (WPC, 2011; see also McDonald et al., 2007). Various potential barriers to participation within the Work Programme at the subcontractor level were also identified, which led to the suggestion that there had been a third sector 'squeeze' (Simmonds, 2011a; The Independence Panel, 2012, 2013).

At the prime level, these concerns appear to have been justified. Out of 40 prime contracts, only two can reasonably be said to have gone to third sector providers. One of these, Rehab JobFit, is part-owned by the multinational private company Interserve. The other, the Career Development Group, operates in a partnership with a private sector organisation. This can be compared to previous schemes where the third sector held around 40-50% of direct contracts (Hills et al., 2001; Stafford et al., 2007; McDonald et al., 2007; Armstrong et al., 2010). One contract was awarded to Newcastle College Group, a further education college, while the remainder went to large private sector corporations specialising in the welfare to work industry or public sector contracting generally.

This is not particularly surprising given that a minimum turnover of £20 million was required to gain entry onto the 'Framework for the Provision of Employment Related Support Services', which in turn allowed providers to bid for a prime contract. This requirement was intended to ensure organisations had the necessary cash flow and ability to bear risk. Even without this official barrier, compared to predecessor schemes, Work Programme prime contracts involved a wider range of clients, larger geographical areas, higher performance targets, a more conditional payment model and fewer contracts (Lane et al. 2013). As a result, Rees et al. (2013) suggest that TSOs may have been disproportionately discouraged from bidding by the capacity required, high risks, a lack of commissioning expertise, and a relative lack of access to capital. Some potential providers also raised the issue of a potential conflict between their values and the requirements of the prime role, or more pragmatically, a risk to their charity 'brand' as campaigning, mission-driven organisations.

In other words the prime role does not appear suited to the characteristics of the vast majority of TSOs in this area (see also TSTF, 2009; WPC, 2009). This problem is not unique to the third sector, however, and appears to result from a general consolidation of the welfare to work market favouring larger suppliers. As the Centre for Social and Economic Inclusion (CESI) have shown, 36% of the Work Programme is delivered by just two providers: Ingeus Deloitte and A4e (Simmonds, 2011a). Only 8% went to new market entrants, despite several high profile bids. Large, established contracting organisations appear to be the main beneficiaries of the open public services agenda, despite attracting controversy in various areas, including, in the case of A4E, alleged fraudulent activity and poor quality services (CPA, 2012; WPC, 2010). Given that an estimated 43.1% of provision is delivered by primes in-house, the general contraction of the welfare to work market and the wider context of public austerity, it is not surprising that smaller organisations of all kinds have felt squeezed.

However, whilst prime contracts are firmly beyond the reach of most TSOs, this could have been somewhat compensated for by a significant presence at the subcontractor level. The Government

has been keen to rebut the idea of a third sector squeeze and to stress just “how big a role the voluntary sector is playing” (DWP, 2012). At least ostensibly, the distribution of subcontracts does seem to provide a more positive picture for third sector providers. Table One below shows that at both tier one and tier two, third sector providers are well represented (though as discussed below, the tier two figures are arguably misleading) (DWP, 2012).

Due to the lack of available data, however, there are considerable gaps in our knowledge. Without the number of applications made by organisations from different sectors, it is difficult to judge whether the number of TSOs involved can be considered a ‘success’ for supporters of third sector involvement. These figures also fail to reveal market share, as the number of contracts may not be proportionate to the number of referrals or the value of the contracts. Based on the content of primes’ bids, CESI estimated that the two third sector primes and the 153 tier ones would account for 18.3% of referrals (Simmonds, 2011a). A one off stock take by the DWP early in the programme confirmed a third sector market share of around 20% (2011c). Excluding the two primes, however, would give a much lower, currently unknown, figure. Furthermore, the idea of a squeeze implies a downwards trend, but there is no data available which allows us to determine how market share compares to the Work Programme’s two main predecessors: Pathways to Work and the Flexible New Deal. In several ways, therefore, the picture is incomplete.

**Table One: Number of subcontracts held by sector, November 2012**

Qualitative evidence, however, does suggest that despite their delivery experience, some potential third sector subcontractors were put off bidding by the risks and required investment associated with payment by results, concerns over financial viability and the uncertain volume of referrals (Lane et al., 2013). Some organisations may even have turned down contracts for similar reasons, rather than being ‘squeezed out’ as such (NCVO, 2011). Furthermore, those that did tender found the process to be a heavy administrative burden (Crisp et al., 2011). Organisations were often required to bid to multiple potential primes in a CPA, all with different tendering procedures (WPC, 2011). A survey of Third Sector European Network members (TSEN, now part of the NCVO), found that 64% of respondents felt they were asked to include too much information (Simmonds, 2011b; see also NCVO, 2011).

For some potential third sector providers, therefore, there appear to have been considerable obstacles to participation, often related to their limited size and capacity. The concerns raised over participation at the prime level appear justified, and there is qualitative evidence of further barriers at the subcontractor level. It remains a point of debate whether or not this development should be a concern for the programme’s architects. As the Minister for Civil Society argued, the aim of the Work Programme is not to support TSOs (Hurd in Wiggins, 2012). At an aggregate level, however, these trends may reduce the amount of specialist or local expertise within the programme. For TSOs themselves, those squeezed out of the prime level will have been forced to accommodate themselves as subcontractors, and face the issues discussed in the next section. Some of those forced out entirely could subsequently face financial pressures and reduced capacity to deliver services, depending on their reliance on this policy area for their funding (Crisp et al. 2011).

### **Are subcontractors mistreated by prime contractors?**

As noted above, subcontracting within employment services does not appear to have been a positive experience for some third sector providers under previous employment schemes (WPC, 2010; Hudson et al., 2010; NAO, 2010b). Unsurprisingly, therefore, there was concern that similar negative experiences would be repeated within the Work Programme (WPC, 2011; NCVO, 2011). In an attempt to address these fears, the DWP's 2008 commissioning strategy specified a code of conduct for primes, and promised that the DWP would act as a market steward to protect subcontractors. To fulfil this claim, whilst maintaining the black box model, the department ultimately established the Merlin Standard: an accreditation process and mediation service for disputes. Somewhat ironically, this accountability process has itself been outsourced to emqc Ltd, a private organisation. The Coalition Government has made accreditation compulsory for all Work Programme Primes, and all have since been found compliant (WPC, 2013).

To date, it does appear that some of the worst excesses from previous schemes have been avoided. Nevertheless, respondents to the latest WPC (2013) report were still concerned that Merlin lacked sufficient sanctioning powers to enforce decisions. Similarly, a survey conducted by the National Council for Voluntary Organisations (NCVO, 2011) at the start of the Work Programme found that only 29% of respondents thought Merlin provided even partially adequate protection for subcontractors. A report on the independence of the voluntary sector, funded by the Baring Foundation, has also censured the Work Programme on associated fronts (The Independence Panel, 2012). The authors of the report were particularly critical of a perceived lack of viable referrals, excessive risk for subcontractors and an absence of genuine negotiation during the tendering process. The panel also drew attention to so called 'gagging clauses' within subcontracts, which they interpret as prohibiting criticism of the programme, primes or the DWP. This is clearly a concern for delivery organisations with an advocacy or campaigning remit, though it is not entirely clear how common these clauses are, or the extent of their influence in practice.

As the WPC (2013) report concludes, however, the root of much of the concern around subcontractor treatment seems to be primarily about the limits to Merlin's remit rather than a lack enforcement powers. Specifically, it is not able to prevent subcontractors from signing up to undesirable terms and conditions in the first place. Nick Hurd, the Minister for Civil Society, provocatively argued that charities couldn't expect the Government to "hold hands all the time" (in Wiggins, 2012). Whereas primes' tenders are publically available, we know little about the content of most subcontracts, which makes it difficult to assess the terms and conditions subcontractors are operating under. Some TSOs do appear to have been negotiating from a weak position, however, and 53% of respondents to the TSEN survey felt they were offered terms on a take it or leave it basis (Crisp et al., 2011).

At the tier one level, one of the most prominent complaints relates to the payment model and the associated level of risk (WPC, 2013). It was originally claimed that a central benefit of the prime model would be that the larger primes would absorb some of the risk of payment by results on behalf of their subcontractors (DWP, 2008b). In practice, the official DWP evaluation for the Work Programme found that almost all tier one providers operate on broadly the same funding model as primes, and therefore experience no less risk (Lane et al., 2013). Additionally, subcontractors have to bear the risk of their prime failing or losing market share due to poor performance, regardless of their own outcomes.

Arguably, this scenario stems from the DWP's own efforts to transfer risk onto prime providers. Primes have to cope not only with the risks of the outcome focussed payment regime, but also uncertain levels of referrals and a challenging economic context. Pattison (2012) suggests that payment by results is particularly risky in the Work Programme due to the importance of external factors, such as the economy, and the unclear link between interventions and job outcomes. Evidence to the WPC and the DWP evaluation suggests that primes have struggled to bankroll provision for higher than expected numbers of Job Seeker's Allowance (JSA) related referrals, highlighting the difficulty of forecasting these levels years in advance (WPC, 2013; Lane et al., 2013). In this context it seems almost inevitable that primes would attempt to share these risks with subcontractors, even if doing so does raise fundamental questions about their role within the welfare to work market. Both the Social Market Foundation (Mulheirn, 2011b) and Committee of Public Accounts (CPA, 2012) have questioned whether the DWP's strategy makes sense in the long term. Although the DWP can transfer short term financial risk; the risks of underperformance and the subsequent social consequences remain.

The second major complaint is more applicable to the tier two providers and concerns the level of referrals received from primes. Surveys by the Third Sector Research Centre (TSRC), the BBC and NCVO suggest that despite the figures in Table 1 above, very few tier two organisations are actually involved in the programme's delivery (Rees et al., 2013; BBC in WPC, 2013; NCVO 2012). Some respondents to the TSRC phone survey were not even aware that they were listed as subcontractors (Rees et al., 2013). Similarly, 40% of respondents to the BBC did not consider themselves part of the Work Programme and a further 41% of those that did had received no referrals (WPC, 2013). NCVO found that over 50% of subcontractors, usually at tier two, had received less than ten referrals or none at all (2012). There is therefore strong evidence that primes are not referring to their specialist subcontractors, who lack any contractually guaranteed flows. Clearly, this scenario may have contributed to the idea of a third sector squeeze, as specialist organisations find themselves excluded from delivery despite ostensibly holding a contract. Additionally, some TSOs that are not listed as subcontractors felt that they were providing services to Work Programme registered clients as part of their normal work, but that the prime would subsequently be the one to profit if a job outcome were achieved (WPC, 2013).

One possible explanation for the lack of specialist referrals is that primes themselves have not received sufficient numbers of clients who require these interventions (Lane et al., 2013). Simmonds (2012) notes JSA referrals were 15% higher than expected after the first year, referrals of health related benefit claimants were only 37% of those anticipated. One possible cause of these low rates is the appeal rate for the Work Capability Assessment, which determines an incapacity benefit claimant's fitness for work and indirectly their eligibility to participate in the Work Programme. The DWP has faced major criticism over the assessment process, with nearly 40% of appeals proving successful (CPA, 2013); though it should be noted that this does not tell us the overall rate of appeals. The DWP has responded by announcing that its long term contractor, another private firm called ATOS healthcare, will lose its monopoly and face new competition.

The almost complete absence of specialist referrals, however, suggests a further explanation is needed. As mentioned above, there appears to be a generally low level of resources for delivery within the programme. End to end providers may simply lack the resources necessary to fund these relatively expensive, intensive interventions because of the way the programme is designed. End to

end providers therefore appear to either keep these referrals in house, or refer users to existing public services funded from other sources wherever possible (Lane et al., 2013; Rees et al., 2013). It is unclear whether primes knew this would be the case when they were assembling their bids, and hence whether third sector tier two providers were used as 'bid candy' or 'window dressing' (WPC, 2011). The DWP evaluation found "little evidence" of bad faith (Lane et al., 2013, p.19), but many tier two providers do feel as though they were misled (WPC, 2013). Clearly, this has implications for these specialist third sector providers, who are lending their brand and legitimacy to the programme without any substantial return to themselves.

The net impact of these difficulties upon the third sector as a whole is difficult to gauge due to the diversity of TSOs experiences. The NCVO survey found that 47% of respondents felt their contract was at risk of failure within 6 months, and a further 26% by the end of the programme (2012). The results, however, are not presented in a way that reveals how many of these are tier one or tier two organisations respectively. Rees et al. (2013) argue that subcontractors' experiences are related to factors besides their sector, including their role, but also their prime, location and individual contract terms. How they coped with these experiences was in turn mediated by factors such as size, culture and how dependent the organisation was on the welfare to work field. For some TSOs, a lack of referrals is a frustration, but ultimately Work Programme activity constitutes only a small proportion of their overall workload (ACEVO, 2011). For others that are more dependent on the programme for funding, the same scenario could have major structural implications for staffing and organisational survival. We also know that at least some organisations appear to be coping well within their operating environment and have a positive relationship with their primes (NCVO, 2012; Lane et al., 2012; Rees et al., 2013).

Furthermore, some organisations appear to have been much more capable of negotiating favourable terms than others (Rees et al., 2013). This will depend on factors such as an organisations' resource base, negotiating experience and reputation for delivery (Alcock et al., 2004; Cunningham, 2008). Those less dependent on the welfare to work market may also have been more able to walk away from what they considered unacceptable contracts. Alternatively, some organisations appear to have taken difficult strategic decisions in order to remain viable, such as expanding the scope of their customer base in order to secure non-specialist, tier one contracts. Although this is arguably an astute response to a changing environment, it also raises questions around identity and mission for these organisations. TSOs are not just passive victims, but are themselves strategic agents with various options available and difficult decisions to make within a changing policy field.

Taken in aggregate, however, the current trend may suggest that specialist third sector providers are now less able to secure funding within government-funded employment services, unless they widen their user base. Similarly, although they have a higher level of security, tier one organisations may also be unable to deliver the more intensive interventions themselves due to a general lack of resources. This would pose a fundamental shift in practice away from the 'specialist experience and skills' repeatedly advocated by the DWP in its statements on commissioning from the third sector under New Labour (DWP, 2006; 2007b; 2010), and supports the idea that commissioning has become more about risk reduction and cost savings (Rees, 2014). It would also mean a further move for some third sector organisations from work placement and social integration based schemes with which they were historically associated (Aiken and Bode, 2009).

## How has the Work Programme performed?

To fully understand the role and experiences of TSOs within the Work Programme, it is important to explore the wider context within which they deliver, and in particular the outcomes achieved by the programme so far for its unemployed users. Some commentators expressed doubt early on about the anticipated performance levels expected by the DWP. Using Flexible New Deal data as a predictor of primes' performance, the Social Market Foundation (SMF) predicted that providers would severely undershoot their targets (Mulheirn, 2011a). SMF director, Ian Mulheirn has since claimed the targets were "wishful thinking" and that the DWP was attempting to build a "macho image" (in WPC, 2013, p.14). The National Audit Office came to a similar conclusion, again using Flexible New Deal data (NAO, 2012). CESI, in contrast, felt that the targets were feasible, but only depending on the developing state of the economy (2011).

There was also significant pessimism within the third sector. Only 8% of TSOs that responded to an ACEVO survey at the start of the programme were confident that the MPTs in their area would be met (ACEVO, 2011). There was particular scepticism that sufficient resources would be available for the most disadvantaged client groups, and only 9% of respondents felt differential payments would be effective (see also WPC, 2011). Given that some of the respondents were themselves providers, this potentially indicates a lack of confidence that they would be able to achieve significant results within the framework of the programme.

Setting appropriate targets for major employment programmes is an inherently difficult process. It requires the DWP to predict flows of referrals, primes' costs, and their likely performance in uncertain economic and labour market conditions (NAO, 2012). First, the DWP estimated the number of job outcomes that would be achieved without the Work Programme. Unless primes outperformed this level, or operated at well below the anticipated costs, they would not break even under the payment model. As primes estimated their costs would be 30% higher than the DWP had predicted, even higher performances were likely to be required (NAO, 2012). Second, the DWP set contractual minimum targets at 10% above the non-intervention level for the three largest payment groups, requiring a standard of performance that exceeded the New Deal programmes during the boom years of 2001 to 2008 (WPC, 2011). In order to win contracts, many primes went even further and offered significant 'discounts' on their fees, under the expectation that they could later compensate through higher performance. Finally, an annual reduction in the attachment fee was included in the design, with their complete removal due in April 2014 (WPC, 2013). Clearly, these factors all combine to form an extremely challenging financial framework.

The minimum performance targets were designed by the DWP to be measured at set points in the programme's development. As Table Two below shows, the first was set for the initial ten months from 1<sup>st</sup> June 2011 to 31<sup>st</sup> March 2012, and the second from 1<sup>st</sup> April 2012 to 31<sup>st</sup> of March 2013 (DWP, 2013a). In the first period, all primes fell far short of the minimum performance levels. Overall, only 3.6% of users secured job outcomes in this period, compared to a 9.7% minimum performance target, as calculated by the NAO (2012). The results were even worse than the calculated non-intervention rate, resulting in a storm of negative publicity and claims from the Labour opposition that the Work Programme was 'worse than doing nothing' (Byrne in Ross, 2012). The results for the second period showed considerable improvement, though providers still fell short of the minimum targets, especially for new claimants of Employment Support Allowance (ESA), a health related benefit. In both cases, however, there was considerable variation between providers,

and some primes have now met their JSA minimum targets for the first time. The latest results suggest that performance continues to improve as the programme progresses (DWP, 2013b). Overall, therefore, the programme may avoid fulfilling the initial predictions of catastrophic failure, but has proved severely disappointing for the hardest to help payment groups.

**Table Two: Job outcome levels as a proportion of referrals (MPT in parentheses)**

It is also questionable whether the most disadvantaged individuals have received even a basic level of services. Providers of contracted out employment services have a history of focussing their resources on the clients most likely to trigger outcome payments (creaming), while neglecting those with the most challenging barriers to work (parking) (Hudson et al., 2010; WPC, 2010). Differential outcome payments were introduced in the Work Programme to try and incentivise providers not to park but, two years into the programme, all the available evidence suggests that providers continue to focus their resources on the users with the smallest distance from the labour market (Rees et al., 2014; Newton et al., 2012; WPC, 2013). Some have suggested the incentives are simply too low to make a difference to behaviour (Mulheirn in WPC, 2013). Within each claimant group, successful outcome payments need to fund the provision not just for the users who achieve those outcomes, but for the entire cohort. Perversely, as there are fewer successful job outcomes in the more challenging customer groups, funding is therefore in practice lower per user in these groups despite differential payments (Simmonds, 2013; Newton et al. 2012). Parking, therefore, may be less a matter of ill intent from providers, and more a matter of necessity within a highly performance dependent payment regime.

These findings all have important implications for third sector providers. First, underperformance is likely to exacerbate some of the issues discussed in the previous sections, including a lack of specialist services, greater pressure on primes to pass on risk, and fewer resources for end to end third sector providers to secure outcomes for their beneficiaries. Due to payment by results and lower than expected outcomes, the DWP has paid out considerably less in fees than it initially anticipated (WPC, 2013). This means that funding is forced into a downwards spiral when arguably it is needed most (SMF, 2012). As ESA claimants trigger higher fees for job outcomes, disappointing results for this group will further compound the effect, and higher than anticipated JSA referrals means that what funding is available needs to be spread further. Some providers are reporting case loads of 100 users per advisor (WPC, 2013), and are adopting less intensive forms of provision such as group sessions and online support, reportedly as a way of creating cost savings (Lane et al., 2013).

This is clearly at odds with the “intensive, individualised support” envisaged in the Freud Report, which recommended many of the moves towards the current prime model (Freud, 2007, p.6). It also raises difficult questions for TSOs. Many were ostensibly set up precisely in order to help the most disadvantaged individuals (TSTF, 2009; Crisp et al., 2011). Yet these same organisations could find that creaming and parking provides the only viable strategy to break even within the current payment structure. Even with the improved performance for some customer groups, it is also clear that the Work Programme does not provide a radical solution to long term structural employment, or the barriers faced by disadvantaged groups (Grover, 2009). TSOs face high levels of risk and potentially financial hardship due to the poor performance of the programme, seemingly with little return for their most disadvantaged beneficiaries.

It is possible that, underneath the headline figures, third sector providers are in fact providing higher quality services than their counterparts from other sectors, perhaps cross subsidising services and going beyond the contract. Unfortunately, there is little current evidence for this form of distinctive delivery. A study by the National Consumer Council (Hopkins et al. 2007) did find that users rated third sector providers higher on some measures, but it is difficult to apply their findings to the context of the Work Programme. Evaluations of previous schemes tend not to make comparisons between providers, but they have found that the funding model almost always determines the level of strategic behaviour (Loumidis et al., 2001; Griffiths and Durkin, 2007), particularly when organisations are under financial pressure (Hudson et al., 2010; NAO, 2010, 2010b; Stafford et al., 2007). Currently there are no data available about the performance of subcontractors, and unless this situation changes, it is difficult to envisage this current gap in our knowledge being addressed.



## Conclusions

This paper has examined much of the available evidence on the Work Programme, with a focus on the experiences of third sector providers. The analysis centred around three themes which are particularly pertinent to TSOs: their potential exclusion from the programme, their experiences as subcontractors, and the degree to which the Work Programme has delivered for their users. The key findings are emphasised in this conclusion.

First, it is clear from both quantitative and qualitative evidence that almost all third sector providers are too small to compete at the prime level. Although not unique to TSOs, this marks a major shift in the welfare to work market. At the subcontractor level too, barriers have been identified that prevent smaller organisations from securing contracts. For those previously reliant on this form of funding, this clearly has financial implications. It will also influence the makeup of the current provider base. Larger, more generalist, professionalised TSOs, with experience of the commissioning process, are more likely to be suited to the new environment.

The experience of those that have secured contracts is more mixed. On the positive side, the most egregious examples of subcontractor mistreatment seen in previous programmes do not yet appear to have resurfaced under the Work Programme. Tier one providers also appear to enjoy a relative degree of security within the programme, though they face many of the same risks and financial strains as primes, including a general squeeze on service funding. In contrast, specialist tier two subcontractors have had very little practical involvement. This appears to stem from either a lack of resources or insufficient incentives to provide intensive interventions. Again, this will affect the sustainability of some organisations, but will also shift the nature of services within the programme.

Finally, although the performance of the programme has improved from a disappointing start, the experience of the most disadvantaged clients remains a serious concern. The design features intended to reduce perverse incentives do not appear to have been successful. The poor results raise serious questions for TSOs, many of whom will count the most disadvantaged individuals as their core beneficiaries. They face either being frozen out of the welfare to work field entirely, or participating within a framework that lacks the resources or incentives to properly serve all beneficiaries.

These findings link back to the earlier discussion about the role of the third sector within employment services. In his recent work, Le Grand suggests that both altruistic and self-interested motivations can be harnessed simultaneously (2010). In a well designed, 'robust' quasi-market, there would be no conflict between mission-driven behaviour and a rational, profit-driven strategy. The difficulties concerning creaming and parking discussed above, and incentives to move towards non-specialist provision, however, demonstrate that in practice such dilemmas are commonplace.

At the same time, participation may have unintended consequences for the TSOs themselves, as they seek to maintain their mission and claimed distinctiveness. The evidence from previous schemes suggests that once embedded within the internal logic of a quasi market, the payment model is by far the most powerful determinant of behaviour, regardless of sector (Griffiths and Durkin 2007; Hudson et al. 2010; Stafford et al. 2007). Furthermore, the current form of payment by results implicitly encourages work first style interventions by rewarding fast outcomes and a high client turnover (Griffiths and Durkin, 2007). There is little space in the current paradigm for the

longer term community integration approaches traditionally associated with the third sector: a social inclusion first model (Aiken, 2007, Aiken and Bode, 2009).

An alternative strategy for these organisations might be a more prominent emphasis on campaigning. Most third sector lobbying appears to date to have focussed on TSOs' own experiences and market position. As Davies (2008) has pointed out, this focus can distract from the impact the changed commissioning environment has had on unemployed individuals. A different approach may be to advocate changes to the design of future welfare to work programmes, perhaps for greater user choice, as recommended by the WPC (2013). This could potentially mitigate parking, as users could at least in theory seek out specialist providers of their own accord. An increase in the level of voice given to users is another potential objective. We currently know very little about the users who do not secure job outcomes, or those who appear to have been parked (CPA, 2012).

The most significant implications of the Work Programme, therefore, may be yet to come. The programme's design already appears to have influenced proximate fields such as family intervention, and elements look set to be rolled out in probation, and the drugs and alcohol treatment field. If TSOs are able to use their experiences to alter how these future programmes develop, then the advantages for their beneficiaries could be substantial. There are already some suggestions that the commissioning process will be altered in future (WPC, 2013; Lane et al., 2013; HM Government, 2010, 2012).

In terms of future research, several potential gaps have emerged from this review. Many of these relate to the lack of available data at the subcontractor level, with worrying implications for public accountability and transparency. The DWP and other departments should be encouraged to release performance and referral data at all levels of the programme, not just for primes. This would have the additional benefit of revealing which organisations are actually involved in the Work Programme in practice. Data on which organisations unsuccessfully applied for subcontracts, or secured contracts with unsuccessful primes, would also considerably help to improve our understanding of the third sector's role within the market.

If no new data from the DWP does become available, then primary research may be able to address some of the same issues, despite commercial confidentiality and potential contractual restrictions on releasing data. In particular, access to the content of the subcontracts themselves would clearly be useful, and this could perhaps be negotiated with individual organisations (see Morris, 2000). There is also currently a lack of in depth research focused on the actual services which TSOs deliver and the experience of users. Finally, there is a need for further longitudinal research, which follows organisations throughout the commissioning process. The Work Programme remains only half way through its projected lifetime, and its long term impact will be followed with considerable interest by third sector scholars.

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