



**ERSA Response to DWP Commissioning Strategy –
interim report**

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About ERSA

ERSA (Employment Related Services Association) is a membership organisation representing 34 providers delivering welfare-to-work programmes. Our membership spans the private and voluntary sector with large, small as well as highly specialised provision. Our membership represents well in excess of 50% of the DWP spend on welfare-to-work programmes. All members have had the opportunity to input their views into this paper.

ERSA welcomes the publication of a Commissioning Strategy and the approach of the Department in involving providers in its development. The strategy is important in setting high and consistent standards for both providers and the Department. This will ensure the best outcomes for customers are secured while maintaining value for money for the taxpayer. We understand that the document provides a broad set of principles upon which commissioning can be based. We would urge the Department to maintain this broadness and flexibility to prevent the process from becoming over-prescriptive and leading to undue contract specifications.

An extremely vital part of this document is the proposed Code of Conduct. ERSA is very supportive of this measure, having introduced its own Code of Conduct for members in Autumn 2006. The Code must be supported by a robust mediation, appeals and sanctioning process. ERSA will be very pleased to work with the Department further to assist the development of this Code.

We look forward to the principals in the document being enacted in the forthcoming contracting rounds for Flexible New Deal and similarly within all future procurement exercises.

Market Structure

1. Is there agreement that we should have a flexible approach to the geographical basis of our contracts?

It is possible to have varying geographical contract sizes because customer groups vary within areas, and local government or other boundaries differ and may prove to be a natural fit for the contract size. In many areas, particularly city regions, it is apparent that a travel-to-work area may be the most sensible size for a contract. We do not necessarily need nationally uniform geographical contracts as long as all customers irrespective of where they live receive a good, joined-up service. The manageability of the contract, effective delivery and fair access to provision are of importance rather than the exact geographical size.

2. How best can we link with City Regions and other local partners?

There is clearly a fundamental need for an on-going active relationship between DWP and the regions through the Local and Multi Area agreements and the City Strategies and their devolved equivalents. As important will be the relationships between DWP, DIUS, DCLG, the Home Office (migrant workers) and the Ministry of Justice (offenders) to ensure a commonality of objectives across departments and their policy streams. Of especial importance will be synergy between the DCLG Working Communities, DWP Cities Strategy and DIUS Train to Gain initiatives. DWP has a key role here as a "matchmaker" bringing together providers, initiatives and funding streams.

3. What is the optimum size of contracts?

Contract size must balance the sustenance of a vibrant market with economic efficiency and attraction for long-term investment and encouraging new entrants. The best contract size will ensure manageability and effective delivery. Again, this may not necessarily be uniform across the country. To find an 'optimum' contract size, ERSA considers that the Department would need to quantify to what degree efficiency savings could be made through very large contracts as opposed to medium to large sized. We recommend that in the absence of firm evidence of what savings would be made purely through economies of scale, the Department considers whether the recently contested Pathways contracts have demonstrated the level of market vibrancy and competition that would be desirable for future contracts. ERSA remains unconvinced that we have hit upon the correct model yet. However, 5 year contracts of this size would strike a balance between attracting investment from larger providers and new entrants to the market and achieving efficiency savings. It would also allow existing good quality but smaller providers to position themselves as effective players working within this market.

4. How should DWP work with existing providers to help them adjust to this new pattern?

Clarification is needed over the criteria for Prime Providers and sub-contractors (currently termed Tier 1 and Tier 2) to allow organisations to position themselves effectively. If, as seems likely, the capital sum required will be in the region of £10m, much provider interest will shift to Tier 2 and below. ERSA believes that DWP has a role to play in raising the profile of Tier 2 providers because these will be the organisations who will largely be responsible for the operational success of FND. DWP may wish to rethink the language used (moving away from "Prime" and "sub-contractor") and recognise the strategic significance of the operational tiers. Some of these tier 2 "contractors" will be major players, holding contracts of considerable size.

In order for smaller providers to participate some provision must be made to assist them to overcome negative cash flows.

5. Is there a role for us in helping Prime contractors and potential sub-contractors find one another?

DWP has a role in assisting providers to understand the roles and responsibilities of each tier, the importance of one to another and brokering the relationship between tiers. Fundamental to this will be the proposed Code of Conduct which ERSA believes must be supported by a robust appeals process. ERSA has its own Code of Conduct for members and would be pleased to share this with DWP.

The Department might also consider mandatory "agreements in principle" between Primes and sub-contractors at the tender stage. Contributions to the tender from sub-contractors might also serve to assist DWP with its decision making process.

Market development & stewardship

1. Are there other measures that we need to take in order to ensure against the loss of critical, local delivery capability?

DWP is trying hard to promote its Competitive Neutrality stance but is finding this difficult to accommodate with a wish to protect critical local provision. ERSA would also highlight that specialist and niche providers should be considered as crucial to successful delivery as purely 'local' organisations and that as such the market should be developed to ensure their place as providers of vital services for the hardest-to-help customers is not lost.

ERSA very much welcomes the commitment to supporting the development of a wider market. However in the past there has been lack of consistency over rhetoric and policy, and DWP must be specific at the outset over what is being procured so that critical delivery capability is not lost through contracting rounds. Similarly, support for new providers to the market and those offering truly innovative solutions must be evidenced in procurement practice.

Local Employment and Skills Boards could take on the responsibility for mapping local provision and identifying provision they regard as locally crucial. Once within the supply chain, to be consistent with competitive neutrality, all providers should be subject to market forces with the same stringent outcome and quality targets.

There is a need for better market information to be collected by DWP on the costs of relationships between sub and prime contractors. There is currently no method of tracking what the financial impact on frontline services is having moved some contract management from the Department to providers. ERSA understands that this will lead to more administration but believes that it will contribute towards better quality decisions being made in the future.

Sub-contractors that perform well should be able to expect to keep the work they are doing rather than have it taken over by their prime. This will maintain the vibrancy of the market and ensure that smaller organisations providing vital services have a secure role. Sub-contractors should also be protected by having recourse to the Code of Conduct. It is important therefore to ensure that the Code has sufficient powers of sanctioning and redress.

2 & 6. How prescriptive should we be in the relationship between Prime contractors and sub-contractors? What type of regulation will be necessary for the market to operate well?

- I. The relationship between Prime and Sub contractors is key to the success of FND and we have a concern that over-prescription from DWP may temper creativity and innovation by the supply chains. DWP should have a mediation rather than a prescription role.
- II. We think that there is a role for a comprehensive quality framework within which all provision will sit and against which all provision will be inspected. Our caveat is that the current Ofsted framework is not relevant in its present form to employability programmes. As such a fit for purpose quality framework must be designed for FND.
- III. ERSA considers that a precise Code of Conduct and supporting appeals process that is rigorously adhered to by all parties should be adequate to ensure effective relationships between the prime and sub-contractors.

3. Should we require or advise Prime contractors on how they should contract with and/or fund sub-contractors or suppliers?

No, the funding of sub-contractors is up to the prime contractor and will be influenced by the market. DWP should however oversee contract compliance, receive feedback from the sub-contractor and provide a route for mediation via the proposed Code of Conduct. DWP's role is paramount in ensuring transparency and ethical conduct.

4. How far should we expect/require providers to go in delivering part of the Government's wider agenda?

All providers should understand the Government's wider agenda, but it must be clearly stated if it is expected that providers must deliver specific outcomes. DWP has a responsibility to develop new programmes in tandem with the policy initiatives of other Departments. We urge investment in the mapping of development strategies across Departments to facilitate the sharing of common policy objectives and to avoid the duplication of activity and expenditure.

5. What is the role of the Third Sector Compact?

While maintaining a platform of competitive neutrality for both the private and voluntary sectors, there are clearly lessons to be learned from the Third Sector Compact around how the Government and a sector can work together for community gain. We recommend that DWP looks to the Compact Mediation Scheme when designing a Code of Conduct and appeals process for FND. The Office of the Third Sector should be kept involved in the development of FND via DWP and through relations with provider associations such as ERSA.

Provider Capabilities

1. Is there consensus around these capabilities?

In ERSA's own 'sharing risk in the supply chain' seminar held October 2007, members identified various qualities they believed a high performing supply chain should have. These could be grouped into the following categories: 'competencies and abilities', 'ethical and professional conduct', 'accessibility and inclusiveness' and 'transparency and communication'. The capabilities identified in the document are therefore a sound basis, but are perhaps in need of an addition in the explicit recognition of quality, rather than taking this as an assumption. ERSA agrees with the Department's approach of identifying headline capabilities rather than specifying detailed competencies.

The capabilities for sub contractors are not necessarily the same as those for prime contractors so it must be borne in mind that the organisations within the supply chain need the relevant capabilities for the role they are playing, for instance it would not be sensible to assess a potential sub-contractor on their supply chain management skills if their role does not demand them to perform this. Smaller organisations may have a greater reach into disadvantaged customer groups and provide more specialist services. This strength could be built into the capability framework to ensure that they have a secure role within the supply chain. By having headline capabilities, the Department will have the flexibility to state which are crucial for each contract, as these may differ. It would also then be possible for an organisation to use a specialist on one or more of those stated essential capabilities as part of their supply chain.

2. What do they look like in more detail?

ERSA does not feel that these capabilities necessarily need to be stated in more detail.

3. How do we engage with the development strategy of other departments?

One of the Department's most urgent jobs is to map common objectives across different Departments and their respective national and local policies. Of immediate importance will be bringing synergy between DCLG's Working Communities, DWP's Cities Strategy and DIUS's Train to Gain.

4. What is the appropriate stance of DWP towards provider capacity development, including the issue of consortia building?

DWP must be clear at the outset as to what their objectives are and the reasoning for their objectives. If consortia are considered an appropriate means of delivery, then this must be clearly stated and not left to providers to second guess.

Commercial Strategy

1. Will this deliver a viable, sustained market?

ERSA welcomes the stated principles. We have long held the opinion that longer contracts and payment on outcomes contributes to a sustainable and high performing market. Previous performance is a key indicator of success and many of our members were dismayed that this was not taken into account in previous

tendering. There has been significant cost attached to providers losing one patch to set up in successful areas elsewhere. Such outcomes are inefficient and divert funds away from service delivery, so it is an essential component of the commercial strategy. Competitive tendering is essential but DWP must ensure that the undertakings within successful tenders are actually implemented and that unrealistic pricing does not gain undue influence in deciding tender awards.

In setting out these principals the Department must ensure that it upholds them. To ensure a viable market and encourage investment and innovation DWP must have a sound understanding of its business and write its contracts accordingly.

2. What is the right balance of risk and reward in the market place (at Prime and sub-contractor level)?

ERSA remains unconvinced that the right level of risk and reward, for all tiers, can be struck unless caps on service outcomes and the link between Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME) are removed.

We agree that the emphasis should be upon sustained jobs but agreement must be reached on a clear definition of a "sustainable job" otherwise all parties are working in the dark. Enough must be invested at job entry level to ensure adequate cash flow and our recommendation is that the contracts should achieve a break even situation within 12 months.

ERSA considers that differential payments may well be required for those furthest from work who have complex multiple barriers. We recommend investment into an appropriate assessment tool as we think "banding" on the basis of time on benefit is overly simplistic

3. How can we converge with LSC funding?

We consider that it is less important that there is convergence of DWP and LSC funding than that there is a consistent focus within FND on job sustainability. Partnerships between employability providers and training providers delivering Train to Gain and NVQs will be crucial to the success of a contract. We consider that tangible links to skills via entry to a Train to Gain programme should be rewarded either financially or qualitatively.

The mapping of DIUS and DWP provision and funding we consider to be an internal matter for these departments. It is the respective department's responsibility to converge. Providers have the expertise to assist you in this convergence through our experience of both funding streams. It should be a shared objective that when convergence does occur we will benefit from a new

system based upon the best of both models.

4. What is the best approach to counteract the pressure towards "cherry picking" and "parking" customers?

The Department must proportionately balance the outcome payments and process payments required for successful delivery. Outcome-related payments and uncapped contracts help drive innovation and mean that more efficient delivery contributes towards Departmental savings and ensures that effective sustainable practice is rewarded.

ERSA sees a strong case for introducing payment differentials based on individual customer need. This would ensure that all customers are supported into work; including the hardest-to-help. A payment system that does not recognise the additional inputs required by providers to support those furthest from work will not mitigate against cherry picking, parking or recycling and will encourage a focus on only those close to work.

Such payments will need a sophisticated assessment tool to identify the customer's distance from work. Although the Department suggests a customer's time spent on benefit as the identifying factor for being hardest-to-help; ERSA feels that this is only a starting point and a proper assessment tool must be developed. Such a tool would also allow for greater scope in the future for performance targets to be set within each customer segmentation to ensure efficient service delivery appropriate to the level of help needed for each customer group.

Performance Management

1. How much data is it appropriate and legal to share with providers and other partners?

ERSA believes that as much data as possible should be shared with providers and other partners. DWP must ensure necessary and legal data sharing is possible.

2. & 3. How should we make the best use of our Star Rating tool to build and ensure transparency? How much performance information should we share publicly?

Star Rating is an important basis for ensuring transparency and driving up standards. ERSA strongly supports the introduction of star rating and would like

to see it developed for use across existing and new programmes. Results can be published in league table to show the Department, providers, stakeholders and customers performance ratings. Star Rating is an important means to empower customers with performance information assisting them to make an informed choice about their provider.

DWP Capability

1. Have we defined the capabilities we need in DWP and Jobcentre Plus?

DWP needs to understand other Department's drivers and to have a genuine understanding of the provider community in order to support it proactively. This may be facilitated by reciprocal secondments.

2. How should we implement the strategy in DWP and Jobcentre Plus?

ERSA considers the implementation of the strategy within DWP and JCP to be an internal matter for the Department. However we would recommend that the clarification of the roles and responsibilities of the staff team and a skills audit of relevant expertise within the department is an appropriate starting point. The Department cannot expect to make substantial external changes without the appropriate internal capabilities.

ERSA would like to see the strategy given prominent status in the Department's approach to procurement, and it should form a core part of procurement documentation. It is clear that having formulated this important strategy, it must be put to use. Not only will the principals within it help develop a high performing and efficient market, we recommend that it is used as a yardstick by which to measure the procurement performance of the Department itself. We understand that the strategy is evolving and would be happy to contribute to its further development.

As important is the synergy between JCP and DWP thinking. Each must be as approachable and as communicable as the other at the national and local level.

Customer experience

1. Should the customer have a choice about their route into work rather than the choice of provider?

Whichever provider a customer works with, their favoured route into work should be discussed with their advisor as part of the process of properly engaging the customer in their return to work journey and taking ownership of their

progression. The customer will then be able to plan their route back into work in conjunction with the professional advice given by the provider.

ERSA has been supportive of customer choice as a driver to improving performance and empowering the customer. As the 'rights and responsibilities' agenda in welfare-to-work strengthens, it seems ever more important that a customer should have the 'right' to choose their favoured provider or the ability to change provider in conjunction with their increased responsibilities and conditionality.

We recognise however that the case for choice needs further investigation both in terms of efficiency and performance. In light of this, and the potential benefits introducing choice holds, ERSA believes that wider customer choice must be properly piloted and evaluated.

2. & 3. How should we ensure that the customer voice is heard? How should we ensure that customers' views are taken into account in performance management?

We recommend that DWP organises roundtable events including customers to ensure their voices are heard in an independent setting in addition to providers collecting customer feedback.

DWP should require providers to supply customer feedback. Inspections should include interviews with a sample of customers. Customer opinions should be taken into account in the Star Rating system and in assessments against the quality framework.

A truly "flexible" Flexible New Deal will enable providers to agree individualized plans that will lead to sustained jobs. This process must be unprescriptive and free of bureaucracy.