



## **Skills Conditionality - public consultation**

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**A submission from the  
Association of Learning Providers  
to the  
Department of Work and Pensions**

*February 2011*

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## Introduction

- The Association of Learning Providers (ALP) represents the interests of a range of organisations delivering State-funded vocational learning. The majority of our 570+ member organisations are independent providers holding contracts with or through the Department of Business, Innovation and Skills (BIS), Department of Education (DFE) and Department of Work and Pensions (DWP), for the provision of a wide-range of work-based and work-related learning. Amongst our members we also have a number of consultants, regional networks, and Colleges of FE in membership, alongside well over 50 charities, giving ALP a well rounded and comprehensive perspective and insight on matters relating to its remit.
- With regard to DWP provision, around 80 of our members have declared they currently hold welfare-to-work contracts, but including subcontractors we estimate the numbers involved in this sector to be considerably in excess of this. No less than 8 of the Top 10 DWP providers are members of ALP, accounting between them for nearly £560m of welfare-to-work expenditure out of a combined spend of over £930m for the Top 40 providers. Combined with the extensive number of DWP subcontractors in membership we therefore expect ALP members to be heavily represented in delivery of the planned Work Programme.
- We have built up strong relations at a wide range of levels within both DWP and JCP and have aimed to place ourselves as a “critical friend”, ensuring that provider views are adequately represented but also ensuring that DWP perspectives are accurately passed back to our membership. We hold two places on the DWP Provision Forum, with a number of our members also independently attending. Our Chairman and Chief Executive have had meetings with Secretaries of State within DWP over a period of time as part of our ongoing high-level interaction. We are also active members of the Merlin Standard Advisory Group.
- Comments from our members pertaining to your enquiry were invited at an early stage. A draft version of this paper was circulated to them for comments prior to its submission, and their responses have informed this final version.
- We believe therefore that we are in an excellent position to pass comment on this consultation, and we would be delighted to meet to discuss our submission further at any time.

## Summary

- i. ALP supports in principle the notion of skills conditionality. *(Para 1)*
- ii. Mandatory referral and attendance by a claimant should not be confused with a mandate on the provider to accept the individual. *(Para 7)*
- iii. JCP Advisers must understand the nature of the provision that they are referring to, and ensure that the customer is engaged in the prospect of this referral before it happens. Referral to skills training should be seen as a positive development, rather than as some form of threat. *(Para 8-9)*
- iv. We would advise that all JCP Advisers should be given the opportunity to visit skills providers and visit the provision at first hand in order to fully understand the nature of the referrals they will be making. *(Para 10)*
- v. We would recommend the Committee to take note of the moves the sector are making towards the professionalisation of its workforce. *(Para 11)*
- vi. JCP will need to provide an adequate brief on the client at the time of referral so that a timely assessment can be made by the provider of their suitability or otherwise for particular provision. *(Para 12)*
- vii. Mandation should not unnecessarily curtail the ability of the individual being referred to have some choice regarding the provision they attend. *(Para 13)*
- viii. It is important not to underestimate the impact of mandated clients on other learners. Providers will need to have reassurance about the way mandated clients will be treated in terms of minimum levels of performance data. This will require close liaison between DWP and BIS/SFA. *(Para 14-15)*
- ix. The question of Ofsted's approach to the inspection of provision accepting mandated JCP referrals needs to be clarified before it happens as providers delivering both skills and employability provision will need to know what the impact of various external inspections will be on their business plans. *(Para 18)*

## **Skills Conditionality - an ALP overview**

1. In principle, ALP supports the notion of skills conditionality within the welfare to work and associated benefit regimes.
2. ALP has for many years been strongly promoting the principle that the building of skills is an essential element of any individual's journey towards sustained employment and employability as a whole. It has been a source of frustration for many years that the role of skills in achieving this aim has been largely overlooked and has consistently run a poor second to the mantra of "work first".
3. We are therefore encouraged by these proposals to make attendance at skills provision a condition of benefit receipt in certain circumstances. We believe this sends a strong signal that training is being treated as a very significant contributor towards the return of an individual to the labour market instead of - as it has sometimes been perceived by both Jobcentre Plus staff and claimants alike - a "sink" option where claimants judged too difficult to help can be somehow "parked".
4. It is however interesting to see that these positive moves to conditionality within skills for unemployed people have come at a time when the Department has firmly eschewed the funding of skills in its own right, but are advocating the "levering in" of Skills Funding Agency (SFA)-funded provision to complement the employability provision on offer.
5. Whilst therefore the principle of conditionality is welcome, it is very important that it does not inadvertently, through the way it is designed and implemented, undermine the provision for which it intends to promote access; either through policy design or (more likely) anomalies and mismatches in operational implementation and administration. It is these items therefore on which we would like to primarily comment.

### **Risks and opportunities**

6. Bearing in mind that the vast majority of skills provision for unemployed people will be provided by SFA-funded provision, conditionality is on the face of it a major plus for providers. Retention and achievement data is the lifeblood of such providers, and for JCP customers to be mandatorily referred, with a considerable benefit-related incentive on them to stay and complete the training in question, will be very welcome.
7. One concern that immediately sprang to mind on this subject is allayed early in the consultation document in para 28 when it appears to confirm that providers will still have the right to refuse referrals on to provision. Whilst skills checks will be carried out at JCP before referral, skills

- providers will need to be sure that an individual has the basic personal requirements necessary to start a course rather than being forced to automatically accept that the judgement of a JCP Adviser is always the right one. For skills provision to be of benefit it is absolutely key that the provider feels that the client is in a position to benefit from the provision and that they are willing to be positively engaged. It is very important that the mandated referral to skills training of an individual must not be confused in any way with a mandate on the provider to accept them.
8. This is important in a number of ways, not least because of the importance of retention and achievement results on a provider's future contracting prospects. Minimum levels of performance are a key criterion in SFA contracting decisions, and particularly where providers are smaller rather than larger so an adverse result from one individual learner can have a disproportionate effect on bald statistics that could make the difference between a renewed contract, or its withdrawal. Any referrals that are mandated by JCP must therefore be made with an understanding of the context in which the provider is receiving it. For a customer to be mandated to attend skills training by JCP, then to be repeatedly declined a place, could be extremely demoralising and totally counter-productive. JCP Advisers must therefore understand the nature of the provision that they are referring to, and indeed must do their level best to ensure that the customer is engaged in the prospect of this referral before it happens.
  9. Of course, this does lead to the rather circular argument that if the customer is positively engaged already, a mandated referral is arguably less necessary; certainly providers would generally rather deal with voluntary rather than mandated referrals, but in principle the fact that benefit sanctions can be held in reserve as an insurance against non-attendance or non-completion is welcome. It is therefore very important that JCP Advisers do not seek to over-use mandation, as this will lead to it becoming once again a "sink" option. Referral to skills training should first and foremost be seen as a positive development and "sold" very much on that basis to the customer, rather than as some form of threat, or sanction in its own right. To do otherwise will be totally counter-productive for all concerned.
  10. It is equally important that JCP Advisers are fully aware of the skills provision available to them for referral. By this, we do not merely mean an awareness that it exists, but must properly understand what it involves and to what destinations it could ultimately lead. Referrals made in good faith that are inappropriate will ultimately be as damaging to a client's self-esteem as referrals made without due care and attention being paid. We would advise therefore that all JCP Advisers should be given the opportunity to visit skills providers and visit the provision at first hand in order to fully understand the nature of the referrals they will be making.

11. In essence, much of the above relates to the capability of Jobcentre Plus to understand skills needs and to give appropriate guidance at an early stage. It is equally important however that staff at providers are also able to make sound and accurate professional judgements. Paragraph 27 of the document for example calls for a claimant to be interviewed by "a suitably qualified professional", but what qualification is this? If additional staff are needed to be trained will the DWP, or any other department, support this, or expect providers to absorb the cost? We are aware and are heavily involved in sector moves (initiated by the Centre for Economic and Social Inclusion) to develop a professional qualification for Personal Advisers in the welfare-to-work sector, and we would recommend that the committee may like to make note of these developments.
12. In terms of the information required for skills providers from JCP, there will need to be an adequate brief on the client at the time of referral so that a timely assessment can be made of their suitability for particular provision. They will need to know the ultimate job aim, plus the individual's work history and background, and their previous educational history and attainment as far as can be ascertained. In order to provide a useful and efficient service for clients it is vital that this sort of information is provided by default when any referral is made - but particularly one that is mandated. Not having this information readily available can be irritating but not ultimately too damaging if the client is there voluntarily - if they are there under threat of a sanction and are then told that the referral information is incomplete it is unlikely to pave the way to effective participation.
13. The "other side of the coin" is that mandation should not unnecessarily curtail the ability of the individual being referred to have some choice regarding the provision they attend. A referral may be made to a provider willing to accept the client, but if the client themselves is unhappy at the provision being offered (for whatever reason) it is important that they have some way of raising these concerns and having them addressed without feeling their benefits may be threatened as a result. A client on provision they did not choose to be on can be as disruptive to their learning, and the learning of others around them, as provision that is simply inappropriate or unsuitable.
14. The application of minimum levels of performance (MLPs) to provision for the unemployed is a complex area in itself in view of the current changes to funding and accountability flows, and particularly in view of the effect of MLPs on recontracting. Where there are a number of mandated clients within the cohort - and notwithstanding the effect of possible benefit sanctions - retention and achievement levels are likely to be adversely affected when compared to mainstream provision. However, MLPs at

- present do not accommodate or make any distinction for this possibility. This may therefore dissuade some providers from wishing to take on mandated welfare-to-work clients. If skills conditionality is therefore to be embraced by skills providers, they will need to have some reassurance about the way this new cohort will be treated in terms of their MLP results. This may be through a discrete MLP being set for provision for the unemployed, or some other accommodation being made within the MLP regime to recognise the effect of this client group. Either way it will require close co-ordination with BIS/SFA to ensure that skills conditionality actually means something as opposed to being a theoretical possibility.
15. It is important not to underestimate the impact of mandated clients on other learners. This can have an adverse effect on learner motivation and may devalue the learning provision. Whilst providers will of course seek to overcome this it may well change the relationship they have with their learners. This is important in a number of ways but not least because of the impact it may have on Ofsted inspections.
  16. In itself, this is a difficult area. DWP have made it clear that Ofsted and inspection regimes are not applicable to Work Programme regimes. However Work Programme regimes will incorporate skills provision, which by necessity has to be funded by SFA. SFA-funded provision is in scope for Ofsted inspection. In effect therefore, DWP provision will be being inspected by Ofsted despite the fact that DWP do not wish this to happen.
  17. There has to be a question therefore what happens if SFA inspects skills provision for the unemployed and find it of an unsatisfactory standard. If this happened within a Prime provider for example, would DWP take the result into account when looking at recontracting, which would of course undermine their view that Ofsted should not inspect Work Programme provision, or would they ignore it, thereby effectively sanctioning poor provision? This is relevant to the debate around skills conditionality because with mandated clients it is likely that there may be a more difficult client journey to inspect. Any Ofsted decisions will therefore also impact on whether or not a provider decides to take mandated referrals in any numbers.
  18. This issue will therefore need to be clarified before it happens as providers delivering both skills and employability provision will need to know what the impact of various external inspections will be on their business plans.
  19. In summary, almost all of the above points are encapsulated in an overarching principle that is actually expressed at paragraph 43: "keeping the burden on the provider to a minimum". It must be remembered that there is much latent demand for adult skills provision already - providers will, in general, not therefore be under commercial pressure to accept

more provision from the unemployed cohort. If such referrals bring with them a disproportionate data burden or the risk of a likely adverse effect on recontracting, the chances that skills providers will embrace what should be a positive move will be noticeably diminished.

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