

Quality overview

Jackie Wenham

Quality – the current position

- WORKSTEP has been externally inspected in England and Wales since 2002
- The quality of provision has significantly improved
- Better initial assessment with closer links to developing employment and employability skills
- Progression rates still generally low, but improving
- Majority of providers now judged as satisfactory

Quality - transition to Work Choice

- WORKSTEP will continue to be inspected in England and Wales
- WORKSTEP providers required to continue self-assess
- Work Choice contracts will come under inspection from Ofsted (England), Estyn (Wales) & HMIE (Scotland)

Reviewing quality in Work Choice

- Prime contractors will be required to self-assess and report across all provision
- Prime contractors will be accountable for the quality of all delivery within their supply chain
- Supported Businesses will be directly responsible for the quality of service for customers as part of their guarantee

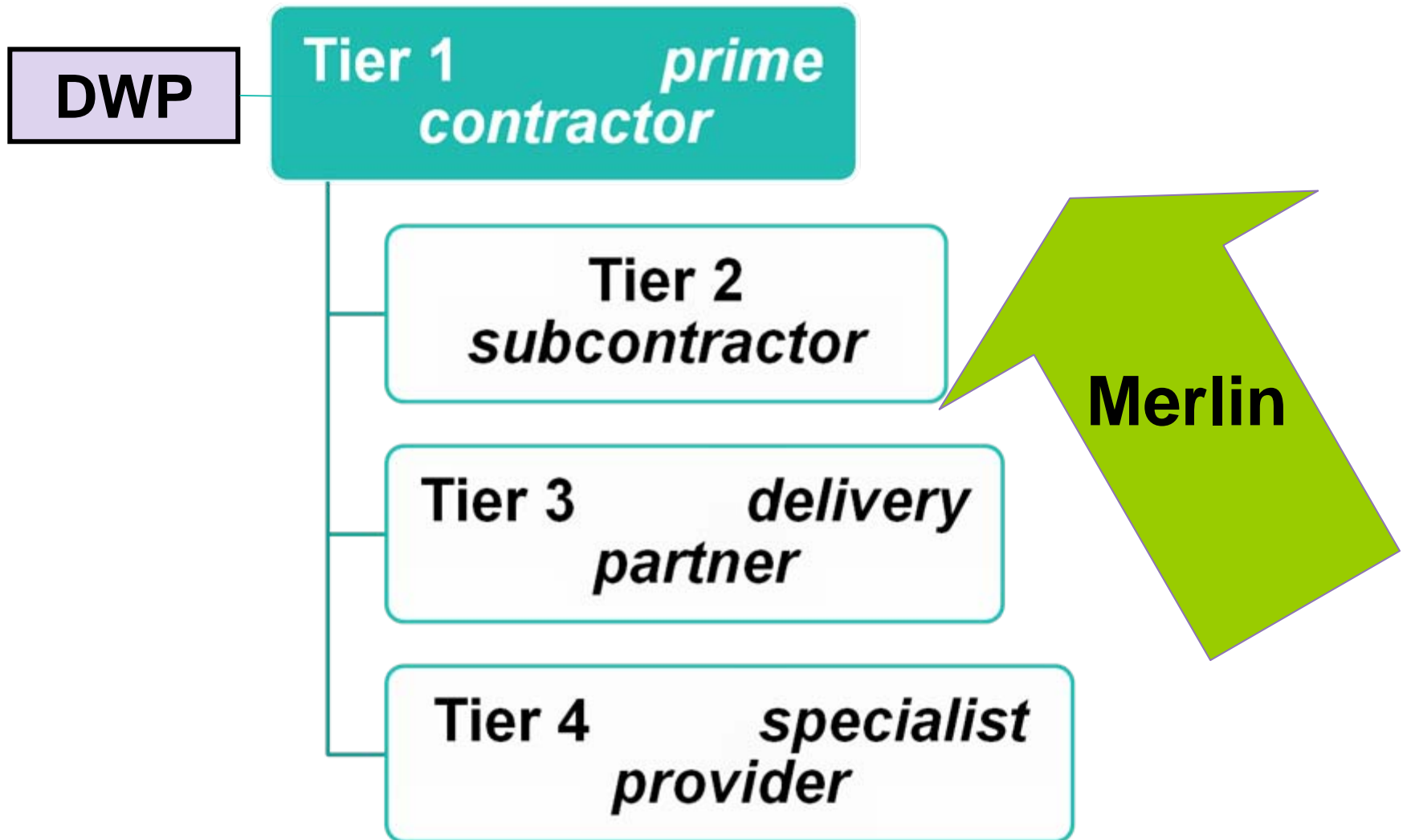
Merlin standard

Simon Shimmens

Update on the Merlin Standard

- Merlin Standard came from a review of FND 1- reflecting concerns of non-primes in future prime contractor led supply chains
- Merlin is being designed to ensure that positive behaviours become established within supply chains – at all stages of the procurement process
- There are ‘teeth’ within Merlin and an associated mediation and arbitration service if required

Merlin standard supply chain territory





Work Choice

Financial Incentives

Treatment of Financial Incentives in Work Choice

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There is no absolute list or definition but the project considers a Financial Incentive to be the movement of money from a WORKSTEP (Work Choice) provider to any organisation that employs or provides a place of work for a WORKSTEP participant.

Can include situations where the provider employs the participant and the place where they work pays the provider a proportion of the salary – the difference represents a financial incentive.

Purpose

PURPOSE of this session -

- To explain the current position of the Work Choice Project regarding Financial Incentives.
- To take questions or concerns – but time is very limited.

Financial Incentives – Current Position

- Although WORKSTEP was not designed (unlike its forerunner) as a job subsidy programme we recognise that many participants are supported in part by financial incentives of one kind or another.
- Work Choice will not be a job subsidy programme – although financial incentives will NOT be prohibited.
- But they will be constrained. Work Choice providers will not be able to commit to payments of any kind beyond the period of their contract.
- Also expect that Work Choice providers will seek to reduce the numbers / amounts of long-term incentives (and replace them with other forms of support for the participant and / or employer).
- BUT – they may not reduce or withdraw any incentive without the consent of the employing organisation.
- And – they cannot begin negotiations until contracts start in October 2010.

Financial Incentives – The Commitment

- A sudden and significant withdrawal of incentives may create a risk to the continued employment of thousands of disabled people (we have identified 4,800+ payments and there are bound to be more among the providers that did not respond to our requests for data)
- So, with three exceptions – the project has guaranteed that WORKSTEP financial incentives will continue in payment in Work Choice.
- £31m set aside for this purpose for the 5 years of contract.
- For incoming Work Choice providers this arrangement is financially neutral.

Financial Incentives – The Exclusions

There are three exceptions to the general principle that current incentives will be guaranteed to continue in Work Choice:

- the participant works in a supported business; or
- the participant works, whether as a permanent civil servant or as a placement in the civil service, in a Government Department or one of its agencies; or
- the participant works in a Local Authority post **and** the WORKSTEP provider currently paying the financial incentive is an agency/or part of **that** Local Authority.

Financial Incentives – Why Exclude?

- places in supported business should not attract a second element of protection. (The £4,800 funding already extended to each supported business place totals £60 million over the life of the contract);
- in principle Government Departments and their agencies should not receive permanent subsidies towards employing disabled people in supported employment; and
- in principle Local Authorities should not use Work Choice funding to pay disabled people in jobs that they would, anyway, have employed them in.

Financial Incentives – What Next

- Project is considering issues and suggestions raised by BASE – any change in the position will be communicated.
- Further data collection exercise next Spring.
- More detailed guidance due next Spring.
- During the Transition Period (April to October 2010)
 - exchange of information between current & incoming providers about each incentive.
 - a case by case check in the event of any dispute.

Work Choice

TUPE and HR considerations

Objectives

Overview of Public Sector Transfer requirements – the regulatory framework

The DWP approach

- Commissioning Strategy
- TUPE legal advice
- Work Choice – specific TUPE HR issues

Linking Commercial and HR activity

TUPE in brief – in booklet only



TUPE – The Regulatory Framework

The Law

- TUPE Regulations (2006)
- Pensions Act (2004 amended 2005)

Cabinet Office and Treasury Policy

- Cabinet Office Statement of Practice (COSOP) (revised 2007)
- Code of Practice on Workforce Matters in Public Sector Service Contracts (Cabinet Office March 2005)
- A Fair Deal for Staff Pensions (1999) + (2004)



COSOP

Transfers involving public sector staff **must** comply with Cabinet Office guidelines for Staff Transfers in the Public Sector Statement of Practice (COSOP)

TUPE **will apply** to protect continuing employment of public sector staff unless genuinely exceptional reasons not to do so
COSOP and Fair Deal (Pensions) apply to Central Government and Local Authority employees

Code of Practice on Workforce Matters in Public Sector Service Contracts

Introduced in 2005 and designed to prevent the emergence of a “two-tier workforce”

New staff recruited to work alongside staff TUPE transferred from the public sector must be offered overall package of terms and conditions no less favourable than those of transferred staff.

“ A Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues”

Cabinet Office requirement for public sector contracting

Sets standards for protecting the occupational pensions of public sector staff who are TUPE transferred.

Future pension benefits – new employer must provide access to pension scheme that is broadly comparable to the public sector scheme. (Evidence of “broad comparability” – certificate or passport of broad comparability issued by Government Actuary’s Department (GAD)).

A Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues

Past pension benefits – new employer must offer opportunity for transferring staff to participate in a “bulk transfer” of pension benefits accrued from past service

Where transferees are members of local government pension schemes it is possible for bidders to seek admitted body status to the local government pension scheme

DWP Approach for Work Choice

DWP Commissioning Strategy

- Facilitation of information exchange on TUPE liabilities

DWP Legal advice provided in ITT

- Workstep/Workprep administrators – TUPE likely to apply
- Participants employed by third parties – TUPE unlikely to apply
- Participants employed by service provider and working for provider – TUPE uncertain but unlikely to apply
- Participants employed by service provider and working for third party – TUPE uncertain



Specific Issues for Work Choice bidder consideration

Highly likely to be transfers between existing providers – categories provided in ITT

TUPE regulations likely to apply to private sector transfers

Public Sector transfers - need to consider pension arrangements and Two Tier issues.

Linking Commercial and TUPE activity

TUPE/HR Activity

Commercial activity

ITT 26 Oct 09

Evaluation 2 Nov 09 to 26 Jan 10

Announce Preferred Bidders 1 Feb 10

Contract Award 26 Apr 10

Transition starts 26 Apr 10

GO LIVE October 10

HR transition

Employee Consultation

TUPE Due diligence on terms and conditions of employment

TUPE liability lists – employees

Pensions - set up and transfers

Announcement of preferred bidder - TUPE/HR activity

Employee consultation on commercial progress – TUPE -Regulation 13

Set up staff Communications - managing initial staff queries and concerns e.g. Help line, Websites and Newsletter/Bulletins

HR Transition arrangements developed – between incumbent and new providers

Begin to collate high level TUPE liability data for transition activities

Detailed TUPE liability list collated by incumbents (staff in relevant TUPE transfer) and maintained

Pensions - broad comparability certificate/bulk transfer arrangements with GAD

Continuing collation of TUPE Liability lists

Due diligence activity between incumbent and new providers – sharing employment Terms and Conditions information as required by TUPE regs, and TUPE liability lists

Continuing communications/consultation with staff included in the TUPE undertaking e.g. help line, website

Final staff transferring list/HR details/terms and conditions pack to new employer (as a minimum 2 weeks before transfer date)

Payroll/tax details transfer