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Employment Related Services Association

Improving Employment Outcomes:

Empowering the Social Sector Through Social Investment

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This paper has been produced by the following social investors and social finance intermediaries:

Bates Wells Braithwaite

Big Society Capital

Bridges Ventures

Charity Bank — A different bank for people who want a different world

Impetus Private Equity Foundation

SASC Social and Sustainable Capital

Social Finance

Triodos Bank

Our aim

This paper has been developed by the major social investors and social finance intermediaries in order to aid thinking by Government about the design and commissioning of future employment support programmes.

Our collective belief is that social sector organisations, whether charities or social enterprises, have potential to support a greater number of jobseekers enter and sustain work. This belief is backed by the recent State of the Sector Survey by the Employment Related Services Association, which found that many social sector organisations see themselves as having strong organisational ability, relationships and reputation often honed through learning from strongly performance based contracts, and that there is an appetite amongst many to grow their services in the employment related services market. Additionally, in its election manifesto, the Conservative Party highlighted the role of charities in successfully delivering aspects of the Work Programme and committed to building on this type of innovative approach in the future.

We believe that social investors and social finance intermediaries could play a bigger role in helping to unlock more of this social sector potential. This paper therefore proposes key market design principles and procurement practices that, if implemented, would support social sector involvement in the future provision of services and deliver better outcomes for jobseekers with the most complex needs, underpinned by the social investor and social finance community.

The market context

The delivery of non-governmental UK employment support programmes has evolved over the last 15 years with the emergence of a prime contractor supply base of large, often multinational, corporations, backed by large balance sheets and sizeable parent company guarantees. This has been in response to evolving government programme design and procurement policy which has seen large contract package areas and financial requirements favouring larger organisations. Recent acquisitions have accelerated this trend towards large providers.

In many respects scaled, efficiency focused corporates have performed well in the delivery of the Work Programme. At the time of writing, over 700,000 long term unemployed jobseekers have found work on the programme, with 433,000 of those achieving a job outcome. We note that the Work Programme model managed to support high volumes of long term unemployed during the economic downturn and whilst performance levels for jobseekers on Employment Support Allowance have been lower than many hoped, we note the negative economic context at the beginning of contracts and that performance is improving and targets are being met.

However, today's job market challenge is fundamentally different to that which existed at the outset of the Work Programme or Work Choice. A strong labour market means that the long term unemployed are fewer in number but have proportionately more complex needs. The support needs of these cohorts – a supportive environment, long term adviser relationships, connections with local communities and access to integrated services – are the essence of what the social sector can bring to employment support services. It seems sensible, therefore, to maximise the potential for the sector to deliver within the future employment related services market over this coming period.

The policy context

The political and policy context appears to accept that social sector organisations should play a larger role in employment support delivery. The Andrew Sells led work on 'Building Best Practice' in the Work Programme, commissioned by a previous Employment Minister, was specifically angled at increasing the ability of social sector services to work both within supply chains and in partnership with employment support delivery organisations. More recently, we also note that two mentions were made in the Conservative Party Manifesto highlighting the role of charities and social enterprises in delivering the Work Programme[i].

The Conservative Manifesto also commits the government to 'halving the disability employment gap' – equating, at this point in time, to approximately an additional 1.1 million jobseekers with disabilities in employment. This appears to be a challenge which the social sector seems well positioned to help the government fulfil given that a greater number of disability employment specialists exist within the social sector than the public or private sectors.

Also, we have been encouraged by recent policy statements appearing to welcome social investment playing a larger role in supporting service delivery. The DWP's Commissioning Strategy published in 2014, for instance, states that "…we are looking at how we can split the provision of capital from the provider of the service. This is where forms of social investment, such as Outcomes Finance or Social Impact Bonds, can play a new role. We will draw on social investor experience to ensure we maximise the role for social investment, including working with Big Society Capital." The one caveat to engaging social investors is that social investment ultimately is repayable finance, and thus underlying contracts need to be investable for social investors to play a role.

Considerations for DWP in Market Design and Procurement Practice

The contention of social investors is that market design and procurement practice could be adapted to align with the ambition and requirements of charities and social enterprises operating within employment support services. Many charities and social enterprises have the aspiration to play a far bigger role, bringing to bear years of knowledge and experience. However, they tend to have smaller reserves in comparison to private enterprises, so government and social investors both have a role to play in unlocking the full potential of the sector in employment services.

To solve the issue of broader participation in future government procured employment support programmes, whether at national or subnational level, we urge government to take the following considerations into account in the design of future programmes. The following list has been drawn from our collective experience engaging with DWP commissioned programmes including the Work Programme, the Innovation Funds, and the Youth Engagement Fund, as well as programmes commissioned by other departments including Transforming Rehabilitation and the Fair Chance Fund, and other payment by results programmes.

Market Design

- **Design payment mechanisms that enable providers to work with those furthest from the labour market**
  We need a far clearer understanding of the true costs of the most effective interventions for those furthest from the labour market for outcome payments to be priced realistically. To the extent that sufficient outcomes payments cannot be paid from the savings that accrue to the DWP alone, then other departments should be engaged early on who share responsibility for the beneficiary group and budgets pooled, e.g. the Department of Health in relation to the link between unemployment and mental health conditions.

  We would support programme design which rewards intermediate outcomes, which help address the risk/reward imbalance found in the current contracts and would give social sector organisations greater confidence to participate in the market place. This would make contracts more investable and thus enable social investment.

- **Consider contract focus and size**
  Experience from the Work Programme suggests that there are scale economies and process efficiencies in handling JSA flow business for those closer to work and this points to a rationale for large contracts. Equally, for the complex needs groups, there is a strong rationale that a more localised needs-based approach that is embedded in the context of other local provision of services may be more effective. Accordingly, whether or not complex needs groups are commissioned separately or as part of larger contracts, the complex needs cohort would benefit from its own clear eligibility criteria and payment mechanism so that it can be financed as a full risk end-to-end prime or sub-prime contract as the case may be.

  The working capital capacity that could potentially be unlocked from social investors across all the Work Programme and Work Choice bids could be £25-30m, which could support several hundred million pounds of contract value.

- **Foster links with local commissioners to aid partnership working**
  It would be ideal to promote linked timetables for future national commissioning and any significant local level commissioning. This would enable local commissioners to describe for each contract package area the level of support potentially available for co-commissioning to the winning prime contractor. The

procurement process could provide for local partners to top up outcome payments for defined jobseeker cohorts or defined service outputs and/or outcomes. These initiatives would be in line with the devolution of power and budgets as referenced in the Conservative Party Manifesto to boost local growth in England.

- **Share the risk on the economic cycle**
  Because of smaller reserves, charities and social enterprises will find it more challenging than the large contractors to accommodate the ups and downs of the economic cycle. In an economic downturn referral volumes are high, but it is difficult to place people in jobs and equally in an economic boom there are a lower number of referrals, but providers will have to carry staff and thus it can be challenging to be wholly flexible with their cost base. A way to address this would be for DWP to guarantee minimum referral volumes.

- **Ensuring a legacy for successful innovation**
  Programmes should include plans for the timely evaluation and continued commissioning of interventions that are proved to be successful. Part of the social return to social investors' risk capital is in the continued development of innovative interventions that are successful. If there are no plans for continued commissioning of successful interventions then organisational infrastructure is dismantled, considerable learning in delivering outcomes is lost, future cohorts of beneficiaries cannot benefit and the potential social return to social investment capital is capped.

Procurement Practice

- **Carefully consider the amount of resources and time required to bid**
  The sheer stamina required in terms of both human and financial resources from a charity or social enterprise to participate in the bidding process must be appreciated. Larger organisations will be able to dedicate significantly more resource into bid preparation and writing, with some organisations known to have spent upwards of £1m bidding for significant government contracts. The Department could help by providing real support and engagement across the provider market well before procurement begins (as expressly permitted by Regulation 40 of the Public Contracts Regulations 2015 (PCRs)). This will enable the Department to commission on a more informed basis and bidders to be better, and more equally, prepared increasing the prospect of the best provider and solution being selected.

  Also, more attention could be given to which areas of bid responses require a significant depth of information to be provided. Savings to the bidder and in turn to the commissioner can be achieved by conducting a proportionate procurement exercise.

- **Be clear up front about what organisations are appropriate to deliver a given contract**
  Given the costs involved for both potential providers and government in the preparation and assessment of bids, greater clarity must be provided early on about the minimum expectations of bidders, whether in terms of balance sheet requirements or similar. Doing so, could save valuable charitable funds being used to little good purpose. However, in setting those boundaries, government must be clear of their implications with respect to enabling broad market sector participation.

- **Re-think the balance of quality versus price in bid evaluation**
  We believe that the balance between quality versus price in relation to bid assessment must be rethought in order for government to gain best value overall. This could be achieved by commissioners setting a standard price against which bidders are asked what they can deliver for that price. (This would remove the issue of smaller organisations who cannot deliver multi-lot bids from being undercut by larger organisations

benefitting from economies of scale, whilst still ensuring value for money for the taxpayer). The balance of quality versus price in bid evaluation is expressly permitted by Regulation 67 of the PCRs, as well as the process of asking bidders to demonstrate what they can deliver for a fixed price by Regulation 67 (4). Furthermore, the ability of the commissioner to take track record into account is contained in Regulation 57 (8) (g).

- **Implement a scoring system that recognises community investment**

  A contractor taking the form of a charity or a regulated social enterprise such as a CIC has a clear social mission and asset lock ensuring that surpluses are reinvested in the community. There is a case for rewarding organisations, in the scoring of bids, that offer reinvestment of surpluses in the target beneficiary groups.

  In the context of recognising the social value that can derive from (and to a significant degree is the purpose of) such commissioning, commissioners could ask bidders to demonstrate: 1) How they will use any surpluses generated to deliver additional impact to the cohort or community the contract is seeking to support, and 2) Any other impacts this will have on the delivery of the contract. This does not discriminate in favour of charities or social enterprises in any way that would be problematic under the PCRs, as any bidder can respond positively to this. However, it does enable social sector organisations to demonstrate how their public benefit mission translates into tangible benefits for the commissioner and service users.

- **Reduce the barrier of the parent company guarantee**

  Charities will find it challenging to provide a sizeable parent company guarantee as they typically have low reserves in comparison to the size of organisation they are by turnover and staff. This means that, where a guarantee is required, they will have to go out to third party providers for additional capacity. DWP has accepted at pilot scale the precedent of allowing social investors to commit capital rather than demand a parent company guarantee. This principle could be extended up to a larger contract value before guarantees are sought.

  Where a third party guarantor is required to provide a guarantee on behalf of a charity or social enterprise, consideration should be taken for the fact that the third party provider is different to a parent company in that parent companies have the (1) **information rights** to spot issues early, and (2) **control rights** and (3) **service delivery expertise** to sort problems quickly. It is not realistic for third party guarantee providers to accept the same terms as parent companies.

  If guarantee terms cannot be modified, another solution could be to make contract package areas smaller and thereby make the guarantee requirement smaller.

- **Ensure step-in / termination rights are appropriate for a payment by results contract**

  Contract terms that give the Department broad step-in / termination rights based on tightly defined service metrics do not work for outcomes based contracts. Providers need to be given sufficient leeway to make the investment to test and innovate interventions they believe will work to achieve the best outcomes for their beneficiaries. Clauses like these make outcome payments, and thus return, significantly less certain, and therefore challenging for social investors to engage with.

Summary

If the above considerations were factored into future employment support programmes, then, with the support of social investors who are prepared to provide risk capital to their provider partners, we believe the marketplace of delivery bodies could be more robust and diverse going forward, ultimately creating value for government as counterparty and society as a whole.

The social investors and social finance intermediaries that have brought their collective experience from participating in previous government programmes to prepare this paper have enabled social enterprises and charities to deliver over £75m in public services markets. They have the capacity and willingness to support significantly more, as they see supporting social enterprises and charities delivering public services as a strategic priority.

We are passionate about and motivated by the shared goal of improving the lives of people in the UK and harnessing the opportunity to do so through public sector markets is one critical way to achieve that goal.

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[i] "There are social enterprises helping people into jobs through the Work Programme," and "For example, our Work Programme has helped harness the talent and energy of charities to help people turn their lives around and find their way back into work."

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ERSA is the representative body for the employment support sector which supports jobseekers to gain, sustain and progress in work. Our members span the private, public and voluntary sectors ranging from multinationals through to small specialist charities operating in their local communities.