

ERSA Response to: Scottish Devolution (Further Powers) Committee consultation on Scotland Bill draft clauses

This paper has been developed by the Employment Related Services Association (ERSA), the representative body for the employability sector operating in Scotland, England and Wales, in response to the Scottish Devolution (Further Powers) Committee call for evidence on the Scotland Bill draft clauses.

1. Introduction: About ERSA

- 1.1 ERSA has nearly 200 members ranging from large multinational providers through to small specialist organisations and spans the private, public and voluntary sectors. This submission has been developed following consultation with ERSA's members. Specifically feedback has been gathered from those members who currently deliver or have an interest in the delivery of employment support provision in Scotland. It does not address all of the proposed draft clauses in the UK Government's Draft Legislative Clauses Paper, but focuses on those that are of most relevance to the employability sector.
- 1.2 As part of its work to support the devolution of employment support to Scotland ERSA launched a Scottish Employment Support Providers Network, which covers all areas of employment related support across Scotland. The group held its inaugural meeting on 11th February 2015 where providers discussed the emerging landscape in relation to employment support in Scotland. Prior to the official formation of the Network ERSA also worked with members and non-member providers in Scotland, as well as interested sector organisations from across all of the UK to develop a [response to the Smith Commission](#).

2. Summary of ERSA views

- 2.1 ERSA's response to the Smith Commission made clear that it is in favour of the future devolution of responsibility for all employment support services to the Scottish Government. It believes that this should include responsibility for Jobcentre Plus and out of work benefits, in addition to outsourced support for long term unemployed jobseekers and those with disabilities.
- 2.2 The devolution of responsibility for employment support allows the Scottish Government a 'golden opportunity' for a substantial system redesign. This should better integrate support from other services, including health, housing and skills, for jobseekers. Such a system redesign will be a substantial undertaking, necessitating a partnership between different parts of the public, private and voluntary sector. In tandem with responsibility for employment support, ERSA believes that the Scottish Government must be sufficiently incentivised to ensure that employment support programmes are focused on increasing the number of people in work and thus decreasing the claimant count. While ERSA broadly welcomes the recommendations of the Smith Commission Report, it still has concerns that sufficient provision has not been made in the draft clauses to create appropriate incentives. ERSA continues to believe that this would be best achieved through the devolution of responsibility for all in work and out of work welfare policies and benefits to the Scottish Government, including responsibility for Jobcentre Plus in Scotland.
- 2.3 In line with the commitment in the Smith Report and the subsequent UK draft clauses, ERSA members believe that the Scottish Government should be bound to honour existing employment support contracts commissioned by Westminster and operating in Scotland.

This includes where contracts have been extended. This would prevent any unnecessary cost to the public purse in the event of compensation for early contract termination and more crucially allow sufficient time for the Scottish Government to develop and commission its own programmes. It would also allow time to put in place a policy framework to align employment provision with wider public service delivery. Should the existing contracts not be honoured a significant gap in delivery may develop whilst national programmes are suspended and new Scottish specific employability support programmes are implemented. This would not be in the interest of jobseekers or Scottish employment related services providers, many of whom are third sector organisations and substantially reliant on contracts.

- 2.4 ERSA believes that clause 22, relating to the devolution of employment support services to the Scottish Government provides a valuable opportunity to develop a programme of support for jobseekers, which is more closely integrated with other support services and which is aligned with labour market needs. Many long term unemployed jobseekers have substantial support needs, necessitating collaborative support from across a range of public services. Following the decision to devolve employment support to Scotland, the opportunity should be taken to put in place a substantial service redesign, which sees employment support services in the context of other services, including skills and health support.
- 2.5 The design of future employment support programmes for Scotland should draw on the existing evidence base of what works. As such, these programmes should be designed in partnership with providers of employment services, many of whom have years worth of experiences of delivering employment and skills provision in Scotland.

3. The Draft Clauses

Clauses 16, 17, 18 and 19 - Welfare

- 3.1 ERSA welcomes the draft clauses to give the Scottish Parliament new powers to create benefits in areas of devolved responsibility and to introduce new powers to make discretionary payments. ERSA understands that concerns exist that these clauses do not offer sufficient flexibility to move away from restrictions placed by the UK government and for discretionary payments and that they can only be applied on an individual basis.
- 3.2 While ERSA does not consider these clauses to fall within the remit of its expertise, it does believe that the draft clauses related to welfare should not impact upon the Scottish Parliament's freedom to develop employment support services in a new way, which will best meet the needs of jobseekers in Scotland. Therefore while ERSA has no current objection to the draft clauses as they are set out in the UK government paper, it believes if the clauses related to welfare at a future point, can be shown to impact upon the delivery of Scottish employment support for the long term unemployed, such as through the application of sanctions, then these clauses should be reviewed. It may even be advisable to include a mechanism for this type of review within the draft clauses.

Clauses 20 and 21 - Universal Credit

ERSA members believe that out of work benefits should be the responsibility of the Scottish Government. However, ERSA considers that the draft clauses laid out by the UK government do accurately reflect the intention expressed in the Smith Agreement.

- 3.4 ERSA also asks the Committee to note the importance of synchronisation between roll out of Universal Credit and how the Scottish Government develops its devolved welfare responsibilities in relation to the areas covered in clauses 16-19 and the application of devolved benefits relating to housing.

4. Employment Support (Clause 22)

- 4.1 ERSA welcomes the promise in the Smith Commission and inclusion in the draft clauses for Scottish Parliament to have devolved responsibility for the design and contracting of employment programmes for the long term unemployed currently contracted by the DWP on behalf of the UK Government. As described in the summary section of this response ERSA believes that it will be detrimental to the establishment of a future devolved employment support provision for the Scottish Parliament to seek an early handover from existing employment support contracts commissioned by DWP.
- 4.2 ERSA is broadly happy with how draft clause 22 is presented in the UK government paper. It does however believe there is still a body of work to be undertaken to ensure that there is an appropriate handover from Westminster to Scottish government for the provision of employment support services, and that the development of new provision should be undertaken using a joined-up evidence based approach.
- 4.3 In particular, ERSA recommends that, if responsibility for the management of current DWP managed programmes is handed over to the Scottish Government prior to the end of the current suite of contracts, that a partnership approach be put in place between the Scottish Government and the DWP to ensure that the contracts are well managed and transition to new arrangements avoids disruption of services to jobseekers and risk to smaller (predominately third sector) providers.
- 4.4 ERSA strongly welcomes the intension in the Smith report and UK government paper to ensure that Scottish and UK designed employment schemes work together coherently in the best interest of claimants, and to facilitate discussions through forums such as the Joint Ministerial Working Group on Welfare and at an operational level through established local partnerships. Furthermore ERSA considers that it is crucial that these meetings reflect the experience and work of those providers operating employment schemes in both locations, as this will ensure that discussions reflect the 'on the ground reality' of the support being delivered.

Commissioning future services

- 4.5 The commissioning strategy put in place for the design and procurement of employment support in Scotland will be crucial in developing effective service delivery. With this in mind ERSA believes it is important that programmes are of a sufficiently long duration to measure their impact. This is particularly case for services for the most disadvantaged jobseekers. Many of the current programmes in Scotland and elsewhere are locked in a short term annualised cycle, leading to limited year on year improvement in performance, disruption of service for jobseekers and learners and a lack of security for those working on programme delivery. This also does not encourage providers to invest for the long term.
- 4.6 In addition ERSA welcomes the inclusion in draft clause 22 3b that the length of the programme for persons claiming reserved benefits who are at risk of long-term unemployed should be for at least a year. ERSA and its members consider a period of one year to be the very minimum time in which a

programme of employment support should be commissioned. ERSA job start data¹ shows that the length of time on the Work Programme remains a significant factor in how successful an individual is in getting into work, so the longer a jobseeker is on the programme the more likely they are to find a job. For example, by December 2014 of those jobseekers referred to the Work Programme in January 2014, 8,807 had achieved a job start, but for those starting the programme almost two years previously, in January 2013, the figure more than doubled to 18,957 finding work. ERSA therefore believes that while the draft clauses rightly place a minimum period of employment support at one year, when commissioning services the Scottish Government should consider existing evidence and may want to consider the benefits for jobseekers of establishing a longer programme of two years or longer in duration.

- 4.7 ERSA and its members also believe that while not explicitly referred to in the draft clauses it is important for the Westminster and Scottish Governments to establish a good referral mechanism from Jobcentre Plus to subsequent employment support in Scotland. Specifically ERSA recommends that the Joint Ministerial Working Group should consider how to manage the referral from Jobcentre Plus at 52 weeks to the next phase of employment support in Scotland. This will be a crucial period in engaging jobseekers and ERSA is keen to ensure that a robust mechanism, which includes a warm handover process and information sharing, is developed to adequately meet jobseeker need.

Shape of future provision

- 4.8 ERSA believes competition in the design and delivery of the Work Programme has improved delivery of employment support in the UK and the latest National Audit Office report² emphasises that the performance by results payment model has increased value for money delivered to the UK government. ERSA's members believe that future provision in Scotland should reflect learning from past employment support programmes, and should specifically consider how value for money and competition can be maintained as part of the new design of employment support in Scotland.
- 4.9 ERSA considers that when deciding on the shape and legislative provision needed to best support the development of future employment support services in Scotland it is crucial to bring together public, private and third sector resources. The Scottish Government may also wish to consider the role of regional and local government and the impact of local labour markets. While this falls outside of the remit of the draft clauses it should nevertheless be an integral part of the devolution process.

Integration and local labour markets

- 4.10 Similarly service integration is important in aligning public services to meet the needs of local labour markets. The dynamics of national, regional and local labour markets do not necessarily align with the administrative boundaries of local and devolved governments. ERSA members therefore urge the Scottish Government to recognise this variation and to address the previous misalignment of employment support services and skills provision within Scotland.
- 4.11 The devolution of services allows the opportunity to avoid the current situation whereby jobseekers on Westminster government schemes are denied access to support from certain other funding streams and programmes operating in Scotland. This in particular manifests itself through jobseekers on DWP schemes not being able to access the equivalent of the Adults Skills Budget funded provision

¹ ERSA Work Programme Performance Report – December 2014, pg.3:

<http://ersa.org.uk/documents/work-programme-performance-report-december-2014>

² National Audit Office, The Work Programme, 2 July 2014, pg.9 <http://www.nao.org.uk/wp-content/uploads/2014/07/The-work-programme.pdf>

in Scotland, although they are able to do so in England. Given that the design of schemes such as the Work Programme and Work Choice was predicated on the ability to combine funding streams around individuals, this is a major current issue for employment support in Scotland. The Scottish Government should look to address this issue as a matter of priority, when designing future programmes.

- 4.12 In addition avoidance of service duplication and alignment of programme objectives is essential to ensure best value for the public purse. The Cambridge Policy Consultants (CPC) study of employability service provision³ indicates that there is an insufficient understanding of what is achieved by the current spend on employment programmes by local authorities. The Scottish Government has an important opportunity to align provision for jobseekers in various geographies to ensure that programmes work well together rather than competing for jobseekers and employer involvement.

5. Conclusion

- 5.1 ERSA is strongly in support of the devolution of responsibility for employment programme to the Scottish Government, albeit it would prefer that responsibility for Jobcentre Plus and out of work benefits were also devolved. However, the feeling of ERSA members is that the draft clauses under consideration adequately reflect the scope of the Smith Commission recommendations. In addition, ERSA believes that:
- Attention must be paid to the transition between current arrangements and future arrangements, including the capacity of the Scottish Government to manage complex contracts, whilst embarking on a service redesign.
 - The design of future programmes should best meet the needs of jobseekers in Scotland by integrating with existing skills and health provision, and reflecting the needs of local labour markets, while ensuring programmes across these areas are fully aligned.
 - Learning from past UK wide employment support provision, and international programmes should be taken into consideration when designing future programmes. Consultation on future programme design should also include service users, providers and local government.
 - Future programmes must be of a long enough duration to adequately support long term unemployed jobseekers, ERSA considers an optimum programme length to be two years and above.

6. Contact Details

Gemma Hopkins
ERSA, Policy and Public Affairs Officer
gemma.hopkins@ersa.org.uk / 0203 757 9416

³ Review of the Allocation of Employability Resources in Scotland, Final Report