



National Audit Office

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COMPTROLLER AND
AUDITOR GENERAL

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Department for Work and Pensions

Preventing fraud in contracted employment programmes

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National Audit Office

Department for Work and Pensions

Preventing fraud in contracted employment programmes

Report by the Comptroller and Auditor General

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Amyas Morse
Comptroller and Auditor General
National Audit Office

14 May 2012

This report examines the controls the Department for Work and Pensions has in place to deter, detect and deal with fraud and improper practice in employment programmes.

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This report can be found on the National Audit Office website at www.nao.org.uk/work-provider-fraud-2012

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Key facts

126

Contracted employment fraud investigations 2006–2012

£829m

Contracted Employment Provision 2011-12

£773,000

total estimated loss of the cases investigated since 2006

- 9** number of cases referred to the police
- 1** number of prosecutions
- £529,770** loss to public funds from staff fraud or abuse in 2010-11
- 9** possible cases of fraud identified by provider A4e's Internal Audit in 2009
- 7** possible cases of improper practice identified by A4e's Internal Audit in 2009

Summary

1 Following the Committee of Public Accounts' hearing on the Work Programme in February 2012, the Chair of the Committee expressed concern at the potential level of fraud and improper practice in contracted employment programmes (employment programmes). Allegations from customers and whistleblowers were received by the Chair, which were then passed on to the Department for Work and Pensions (the Department) for investigation.

2 The Department spends around £900 million a year on employment and support programmes that assist unemployed people to find and keep work. Support is delivered on behalf of the Department by a range of providers under contract. Figures 3 and 4 on pages 13 and 14 set out the main programmes in place in the last five years. The largest current programme is the Work Programme which started in June 2011 and over five years will cost £3 billion to £5 billion depending on performance.

Scope

3 This report examines the controls the Department has in place to detect and deal with fraud and improper practices in employment programmes. It has four parts:

- Part One covers the level of reported fraud in employment programmes and the weaknesses in previous schemes that contributed to increased risks.
- Part Two examines measures taken by the Department to improve controls.
- Part Three examines the operation of the current control regime, further improvements that can be made and how the Department has assessed the risk of fraud at A4e – one of the largest private sector providers of employment programmes.
- Part Four examines the Department's approach to improper practices – activities that range from just short of fraud to poor service.

4 We did not:

- examine the controls that other government bodies use to manage contracts placed with the same providers used by the Department; or
- investigate allegations or carry out testing at providers to re-perform the Department's checks.

5 The Department is currently carrying out its own examination of the controls operated by A4e and of the allegations passed to the Department by the Chair of the Committee of Public Accounts. The Department will report the results of this separately to the Committee.

6 We examined the extent to which the Department adopted the controls that we would expect to see in an effective control environment (**Figure 1**). Our methodology is summarised in Appendix One.

Figure 1

Key elements of an effective control environment to prevent fraud where services are contracted out

Control element	Description
Design	
Design of programme/service to be delivered	Outputs or outcomes to be paid for are clearly defined, can be measured and their delivery validated.
Contract	
Assessment of provider before appointment	Provider's controls against fraud and record are assessed before appointment.
Contract Conditions	Anti-fraud conditions included in contracts.
Oversight	
Contract oversight and management	Management understand the strengths and weaknesses of providers' arrangements for preventing fraud. Assessments are reported to senior management. Staff have the appropriate skills to make such an assessment.
Assessment of providers' controls in practice	Regular review of how controls are working in practice. If necessary, inspections made to give assurance that providers' controls are working.
Checking delivery before payment	Checks made that services or outcomes are delivered before payment is made.
Investigation and Assurance	
Investigating fraud cases	The Department should have the capacity to investigate allegations of fraud.
Independent assurance	The Department should obtain independent assurance that the control environment is working from its internal audit function.

Source: National Audit Office criteria developed from HM Treasury/National Audit Office Good Practice Guide – Tackling External Fraud

Key findings

The level of reported fraud

7 Reported fraud in employment programmes is relatively low compared with fraud in the benefits system and the losses from staff fraud and irregularities.

There have been 126 reported cases of potential fraud in employment programmes investigated since 2006. This is a relatively small number and the value of cases accounts for less than 0.01 per cent of spend. The Department found that there was 'false representation' (fraud) in less than a quarter of these. The total estimated loss resulting from false representation over six years is £773,000, an average of £129,000 a year. This compares with a loss to public funds of £530,000 in 2010-11 from fraud or abuse by the Department's staff. The Department also estimates that it overpaid £1.2 billion due to benefit fraud in 2010-11. However, while the Department has made no assessment of the value of unreported fraud, given the weaknesses in schemes like the New Deal (paragraph 8), there is a risk that the level of provider fraud is understated.

8 Over half of reported fraud in employment programmes since 2006 relates to the New Deal programmes that ended in 2011.

New Deal programmes were partially replaced by the Flexible New Deal in 2009 and then by the Work Programme in 2011. The New Deal programmes had design weaknesses and had poor systems for validating outcomes, which increased the risk of fraud. Outcomes that triggered payments were subject to a degree of judgement, which was difficult to verify. Checks relied on a complex paper trail of records held by providers and there were no checks with employers to verify providers' claims that they had placed individuals into work.

9 The Department did not do enough to quantify and address the fraud risks in the design of New Deal and other legacy programmes. The Department knew of the fraud risks in programmes, including New Deal, but did not introduce compensating controls. In particular, there were no checks with employers to verify claims that people had been placed into work. Rather than addressing the fraud risk in existing schemes directly, the Department gave priority to addressing the risk in the design of new schemes. For the Flexible New Deal and the Work Programme there was a clearer definition of outcomes and automated checking that they had been achieved. In deciding not to increase controls earlier the Department did not attempt to quantify the fraud risk, for example, by carrying out sample checks at employers. Without these checks the Department could not determine whether the number of reported fraud cases was a significant understatement of actual fraud.

Measures taken to improve controls

10 The Department has now significantly improved the controls. In particular:

- the Flexible New Deal and the Work Programme that replaced the New Deal, to have measurable and verifiable outcomes;
- the Work Programme controls enable the Department to estimate the value of fraud and error, and to recover overpayments based on those estimates.

- it introduced contractual conditions requiring providers to have specific anti-fraud controls; and
- it centralised management and oversight arrangements. In addition, for the Flexible New Deal and the Work Programme automated prepayment checks on outcomes have been introduced and a sample check with HMRC records is made to test whether individuals are in work. The Department also introduced provider assurance teams in October 2009 to visit providers to examine governance arrangements, service delivery, financial procedures and data security.

11 In our report *Introducing the Work Programme* we indicated that the design of the Work Programme, in particular, the demanding performance assumptions and targets, created a risk that providers would be tempted to game the system or even, in extreme cases, claim for outcomes not achieved. The Department must take this risk into account in the operations of its control regime.

Current operation of the control regime

12 The Department now has the infrastructure for an effective control environment. When assessed against the criteria in Figure 1 the Department has in place the key elements necessary for effective controls. In particular, the Work Programme includes all the design, contractual, oversight and assurance controls set out in Figure 1. A key control improvement for this programme was the introduction of the automated validation of outcomes before payment is made. This has only been operational for the Work Programme since the end of March 2012, is still bedding in and, consequently, we have not yet assessed its effectiveness.

13 Risks still remain because not every control will apply to every programme. Some of the key controls do not apply to some of the smaller programmes. In particular, on the £8 million programme providing mandatory work activity there are no systematic independent checks with the organisations where the claimant has been placed that outcomes have been achieved (claimants have been placed with them) before payment is made. Unless checking with employers is introduced, the Department is dependent on information held by the provider and the risk of fraud remains.

14 The Department could further improve its assessment of controls by a more coordinated and information led approach. Currently the Department does not obtain key information such as providers' internal audit plans or reports and complaints information, all of which are necessary for a complete assessment of the effectiveness of internal controls. The knowledge of the various departmental bodies involved in the control environment is fragmented as it is not brought together in one place.

15 The operation of the provider assurance teams can be improved further. Although provider assurance teams receive basic training they do not receive training in fraud awareness and more advanced assurance techniques such as how to assess the work of providers' internal audit. In addition they currently give providers advance notice of inspection visits and do not undertake unannounced visits with the exception of data security checks.

16 The Department's past assessment of the risk of fraud at A4e missed vital evidence. A4e has contracts with the Department worth around £78 million a year. A4e's controls were examined by the Department's provider assurance team in an inspection that concluded in May 2011 before the Work Programme and Mandatory Work Activity contracts were let. The team did not request relevant internal audit reports including the A4e internal audit paper later passed to the chair of the Committee of Public Accounts, setting out evidence of nine possible cases of fraud and seven of improper practice by A4e's staff. The Department knew that A4e was carrying out an investigation of this type as it was mentioned by A4e in evidence to the Work and Pensions Select Committee in September 2009. The Department told us that it was not offered the internal audit paper by A4e but that it had already been told of some, but not all, of the cases included in the paper. In addition, A4e told us that it made the Department aware of the sample its internal audit had taken and its proposed approach, which the Department agreed, to following up the anomalies found. Nevertheless, the Department identified weaknesses in A4e controls which the provider was required to make good. The Department also assessed the improved controls that A4e had introduced were in place following previous fraud and its internal review. The Department is following up the cases set out in A4e's internal audit paper in tandem with its wider investigation of its contracts with A4e.

17 There is no single whistleblower line through which individuals can report allegations of fraud about providers. Individuals can make allegations through a number of avenues including their contact at Jobcentre Plus. However, without a single publicised line independent of the people handling their case, there is a risk individuals will be reluctant to do so.

18 Work Programme service users cannot judge whether they are getting the level of service the Department intends because standards are not set out in one place. The Department operates a 'black box' approach to procurement where it does not specify how a provider should achieve outcomes. However, once the contract is let, a provider is expected to deliver services in line with the detail of its bid. The Department can use its contracts with providers, which include for the Work Programme the minimum service standards, guidance and wider codes of conduct, to hold providers to the spirit of delivering Employment Programmes. These standards of behaviour cover more than the minimum service standards but they are not clearly set out in a single place. There is a risk that providers are less clear about how to abide by the terms and spirit of delivering a programme and that claimants have less clarity about the level of service they should expect to receive. The Department does not systematically collect claimant feedback and complaints which could improve its awareness of the key areas where claimants consider they are getting a poor service. However, the Department does receive informal feedback from the Independent Case Examiner and Jobcentre Plus staff.

19 There is scope for more transparency with Parliament and the public. Little information is provided to Parliament and the public about employment programme fraud cases. In its response to the Work and Pensions Select Committee in October 2010, the Department agreed to publish information on fraud but has not yet done so. It expects to publish a report in the second half of this year.

Recommendations

20 The Department has significantly improved the controls it has in place, particularly those now relating to the Work Programme, its biggest programme. The operation of the controls should be improved further and the Department needs to ensure that control risks in smaller programmes such as the mandatory work activity scheme are addressed.

- a** The Department does not make the most of the fraud risk knowledge of its staff and needs to share it more effectively. An annual assessment should be made of the fraud risks inherent in each programme and for each provider bringing together the knowledge of Jobcentre Plus staff, programme managers, account managers, compliance managers, the provider assurance teams, Internal Audit and the Investigation Team. As part of its overall assessment, the Department should estimate the losses due to fraud on its programmes.
- b** Fraud risks remain where controls are weak. The Department should put additional checks in place where other controls are weak based on its assessment of risk. In particular, the Department should consider carrying out checks at employers to validate that clients placed under the Mandatory Work Activity scheme received their placement.
- c** The capability of the provider assurance team should be further strengthened. Their expertise should be increased by training in fraud awareness and more advanced assurance techniques such as the assessment of the degree that they can rely on the provider's internal audit and other control function or when substantive testing is required. Teams should vary their inspection regime with some short notice or unannounced inspections.
- d** Service users cannot judge whether they are getting the level of service the Department intends because standards are not set out in one place. The Department should require Work Programme providers to set out clearly in a single place all the standards of behaviour and service users can expect.
- e** The Department cannot assess the quality of service providers are delivering if it does not have visibility of users' complaints. The Department should review a sample of complaints made direct to providers in order to detect any trends in improper practice. The Department should have a publicised whistleblower line for people to report suspicions of fraud and irregularity concerning providers. The Department should also publicise how MPs and others who have concerns about programmes that cannot be resolved by individual providers, for example, where they see trends that cover more than one provider, can be reported and addressed.
- f** There is little published material on fraud cases. The Department should bring forward publication of the proposed Annual Report on Contracted Employment provision so it is available immediately after the summer recess.

Part One

Reported fraud and weaknesses in employment programmes

1.1 This Part sets out the level of reported fraud in employment programmes.

Reported fraud in employment programmes

1.2 Although any level of fraud is a concern, reported fraud in employment programmes has been relatively low. There have been 126 reported cases of potential fraud investigated by the Department over the six years from April 2006 to March 2012 where there was evidence of a potentially serious, or criminal, matter in the allegation made. Of these, the Department concluded that there was no case to answer in 75 and, of the remaining cases, 24 were cases of false representation, 22 were cases of non-compliance and five are still under investigation (**Figure 2** overleaf). The total estimated loss of the false representation cases since 2006 is £773,434, an average of £128,906 a year. Of this loss, £408,702 has been recovered to date. The value of these losses is a small proportion of the total spending on employment programmes (£829 million in 2011-12), around 1/100 of a per cent.

1.3 The main employment programmes are shown in **Figure 3** on page 13 and **Figure 4** on page 14. The pattern of reported fraud in employment programmes is similar to the picture seen in 2010 when fraud was examined as part of a wider examination by the House of Commons' Work and Pensions Committee. The Committee concluded that the level of detected fraud in employment programmes was low. It was told that there was little evidence of a problem with undetected fraud. It noted, however, that there was no room for complacency and that frauds to date highlighted the extent of risk that could be exploited because of weaknesses in the system at the time.

Figure 2

Employment programme cases of alleged fraud accepted by the Department for investigation 2006-07 to 2011-12

Status	Totals
Accepted cases	126
<i>Of which:</i>	
Ongoing case	5
Case to answer	46
<i>Of which:</i>	
Non-compliance	22
False representation	24
Action on cases to answer	
Referrals to police	9
<i>Of which:</i>	
Prosecutions	1

Source: Department for Work and Pensions

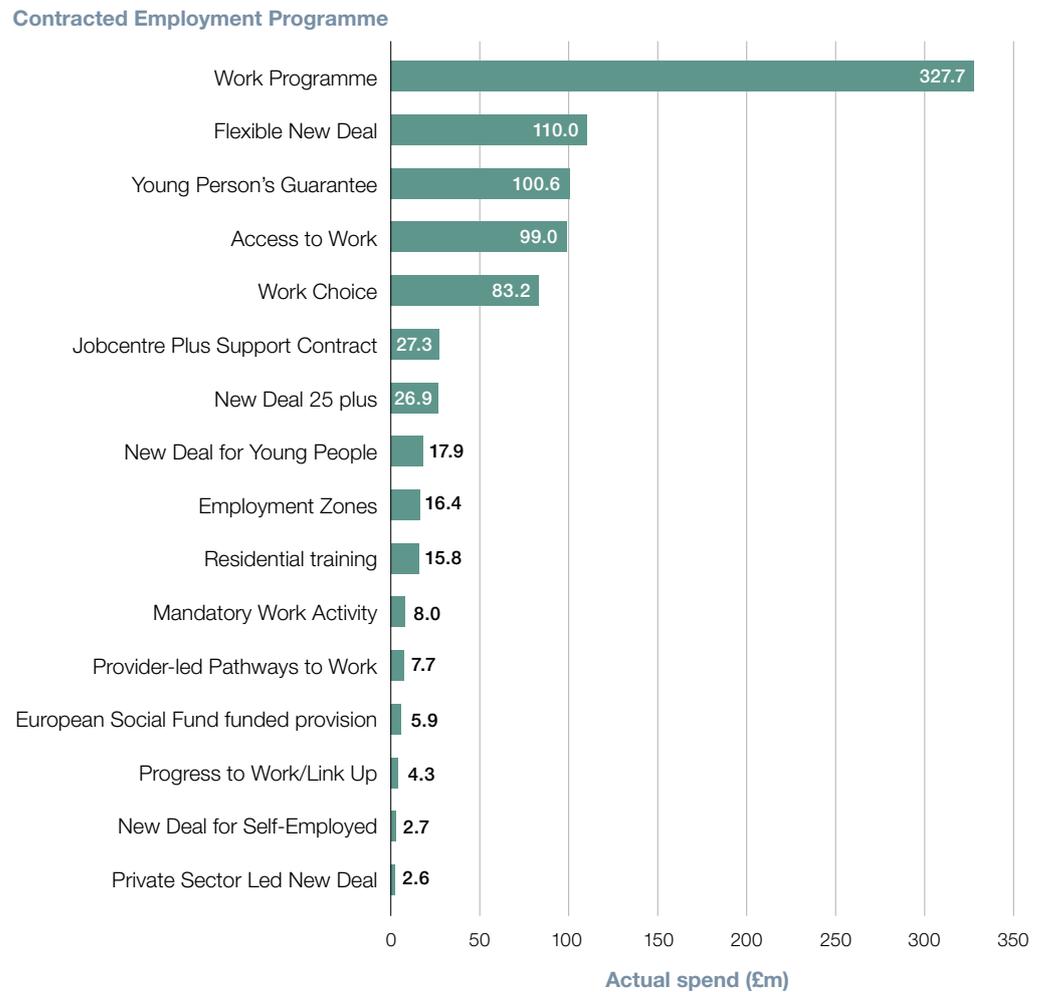
1.4 There has been more fraud in the Department's other spending areas and from its own staff, although spending in these areas is also higher. The Department estimates that it overpaid £1.2 billion as a result of fraud in the benefits system in 2010-11 which resulted, typically, from claimants misrepresenting their circumstances. The actual losses from fraud and abuse by the Department's staff in 2010-11 was £530,000.

Allegations referred to the Police

1.5 The Department's investigations of employment programme fraud concluded that there was false representation on 24 occasions between April 2006 and March 2012 (Figure 2). The Department referred nine of these cases to the police. The Department has agreed with the police criteria determining which cases will be passed to them. The Department does not pass on cases where the evidence is weak or contradictory, or when potential offences cannot be attributed to an individual. One of the nine cases referred to the police has been prosecuted.

Figure 3

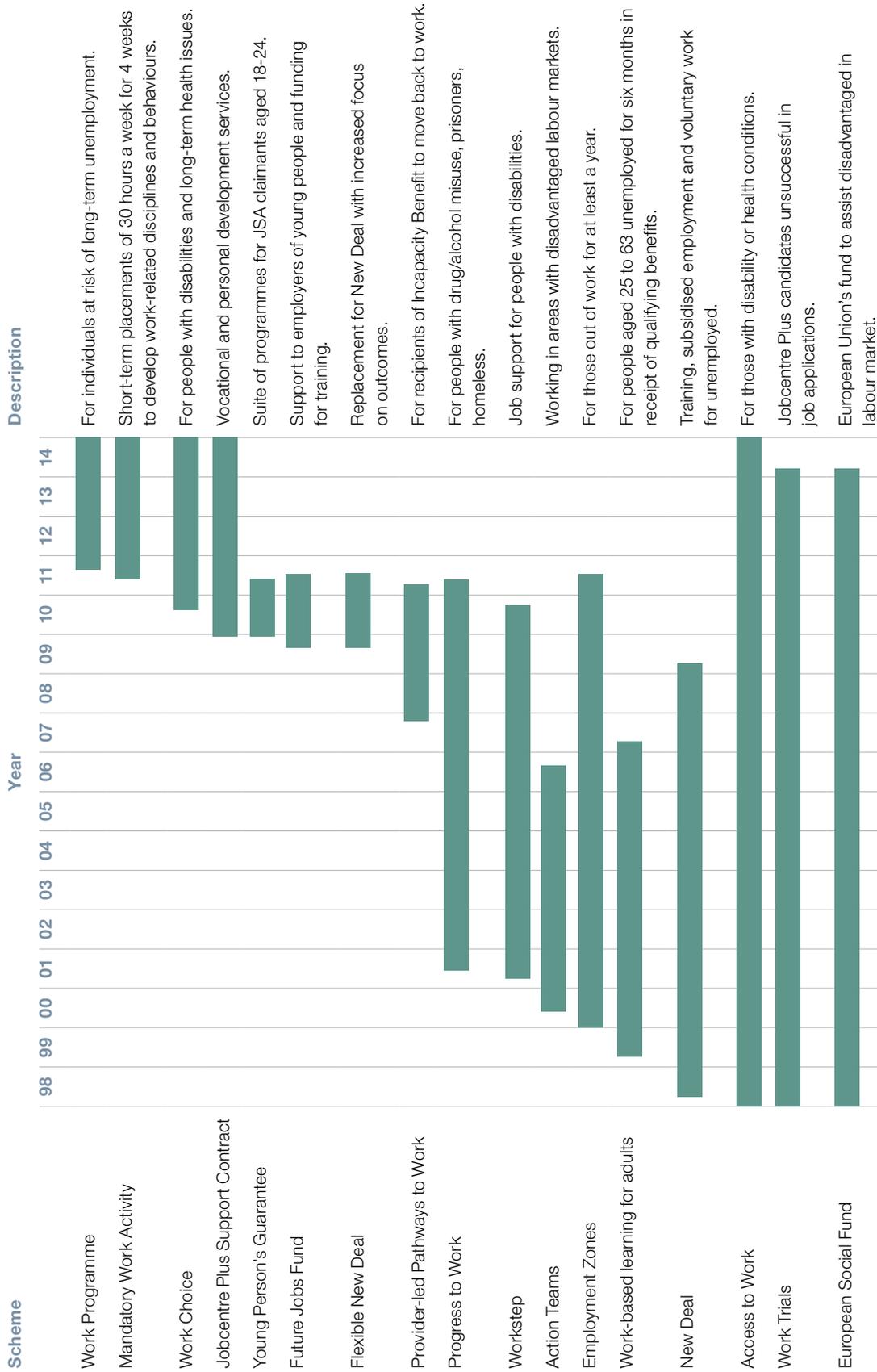
Actual spend on contracted employment programmes 2011-12

**NOTE**

1 Excludes New Enterprise Allowance contracts.

Source: Department for Work and Pensions

Figure 4
A chronology of contracted employment provision



NOTE

1 Excludes New Enterprise Allowance.

Source: Department for Work and Pensions

Patterns of fraud

1.6 The 45 allegations in which the Department found there was a case to answer were spread over 37 providers with only five providers having more than one case to answer.

1.7 Most of the 126 accepted cases of employment programme fraud investigated by the Department since 2006 have been in relation to the New Deal (55 per cent) (**Figure 5**). To date, there have been no allegations reported to the Department in respect of the Work Programme.

Figure 5
Accepted cases – by provision type

Programme	Number of cases	Percentage
New Deal	69	55
European Social Fund	21	17
Progress to Work	9	7
Flexible New Deal	8	6
Workstep	5	4
Employment Zones	5	4
Work Choice	2	2
Work-based learning for adults	2	2
Action Teams	1	1
Private Sector Led	1	1
Work Trials	1	1
Flexible Jobs Fund	1	1
Mandatory Work Activity	1	1
Total	126	

NOTE

1 Owing to rounding, percentages do not add up to 100 per cent.

Source: Department for Work and Pensions

Weaknesses in the control environment for past programmes

1.8 Most of the cases of employment programme fraud relate to false claims for payment for placing people into work. The risk of these types of fraud was greater for some previous schemes because of weaknesses in the definition of outcomes that could trigger payment. This made the outcome difficult to verify. The Department also relied on a provider's own paper records to verify whether the relevant outcome had been achieved. The Department had no single source of validated management information and oversight to support performance and how it managed payment against outcomes delivered was fragmented.

1.9 The New Deal programme is an example where controls were flawed. For the provider to claim payments under the New Deal, a client had to be placed into a job that was 'expected' to last 13 weeks or more. This involved an element of subjective judgement and was difficult to validate. The key control was that employers and the provider certified that this condition was met. The validation of the job outcomes was the responsibility of the Department's Financial and Appraisal Monitoring Teams. As part of their visits to providers they would select a sample of payments and validate the evidence. If evidence was missing the provider would be given the opportunity to locate the evidence and if it was not presented in the time allocated then recovery would be made. However, the teams did not check with employers whether the provider's paper record showing employers' signatures was correct. There was a risk that claims could be made for jobs that were known to be shorter than 13 weeks or employers' signatures could be forged.

1.10 These weaknesses were well known to the Department and providers. They were regularly brought to the Department's attention by its internal audit function, reported to its Audit Committee (**Figure 6**) and reflected in its *Statement on Internal Control*.¹ By 2009, the Department was, however, considering replacing the New Deal with the Flexible New Deal. Rather than introduce new controls for the New Deal, it decided to give priority to designing new controls for the Flexible New Deal and, later, the Work Programme.

1.11 The Department did not quantify the fraud risk that resulted from weaknesses or do further testing to obtain assurance about the risk.

Figure 6

Internal audit annual assurance reports (extracts)

2008-09

A number of issues have undermined delivering the contracted employment provision. These include the changed economic climate, the lack of a single source of validated management information and fragmented oversight to support performance and payment management against outcomes delivered.

2009-10

We have recommended that controls over ... outcome payments, which in 2009-10 accounted for expenditure of £700m, should be strengthened to increase the level of 'off-benefit' checks ... In addition, across all contracted employment programmes, there should be increased routine independent verification of a percentage of outcomes claimed through employers/customer contact, in order to test the quality of provision and to act as a further disincentive for unwarranted claims.

Source: Department for Work and Pensions

Part Two

Control design

2.1 This Part sets out the Department's improvements to controls including programme design, outcome validation and how it oversees providers.

Better defined outcomes

2.2 For the Flexible New Deal (2009–11) and the Work Programme the Department has made outcomes more clearly defined and verifiable. For the Work Programme the main outcome is that a claimant is placed in employment for a defined period and is off benefit. A clear outcome definition that triggers payment reduces the fraud risk particularly when coupled with checks that the outcome has been achieved. The definitions do not, however, completely remove risks (paragraph 2.12).

Outcome validation before payment is made

2.3 The Department has also developed the system for verifying claims. For the Work Programme, and the Flexible New Deal before it, payment is not made until outcomes have been validated. For every claim that someone has been placed into work for the qualifying period, there is an automated check via the provider referral and payment IT system to verify that the individual has been off-benefit for that period. A further sample check is made to HMRC records that that person was in employment. If HMRC records do not confirm employment it will be checked with the employer. The system went live for the Work Programme at the end of March 2012. Outcomes achieved before that time are retrospectively being checked. We have not yet carried out any testing to assess the accuracy of the automated checks. However, verifying claims before they are paid considerably reduces the risk of fraud and should be a significant improvement.

Reducing the number of contracts

2.4 The New Deal offered customised support for each participant of the programme through a myriad of small local organisations. Under its commissioning strategy drawn up in 2008, the Department sought to streamline the number of contracts it had with providers. Through prime contracting, it reduced the number of contractors it dealt with directly. Among other things, this enables the Department to be more knowledgeable about any provider's controls, including those over fraud.

The Department has centralised provider management

2.5 From 2009, the Department centralised commissioning and provider management, which was previously undertaken regionally or locally. It also revised management roles. A Performance Manager is responsible for each contract, monitoring the service being delivered against that outlined in the provider's original bid to identify any disparities and require the provider to correct them. Performance Improvement Plans are used to capture and monitor all agreed actions for performance improvement. There is also an Account Manager for each provider, who is responsible for understanding provider commercial and business drivers for managing risks. A Head of Compliance oversees the whole system of control and produces quarterly reports on the scope and effectiveness of internal systems.

Assessment of providers before awarding contracts

2.6 The Department requires potential providers to set out in tender documents their controls to prevent fraud. For the Work Programme this took place when providers were appointed to the 'framework' for employment-related support services. Providers appointed to the framework are qualified to bid for specific contracts. Potential providers are required specifically to cover four key fraud prevention measures:

- A system for staff to report improper behaviour.
- Performance management systems must avoid perverse incentives, for example to falsely claim outcomes.
- Duties are segregated between those achieving performance and those reporting it.
- An audit regime provides periodic checks of performance reporting.

Provisions in contracts

2.7 There are fraud-related provisions in contracts including clauses that allow for action to be taken, including contract termination, where fraud is proven. They require the four measures set out in paragraph 2.6 to be in place. There is also a requirement that contractors safeguard public funds against fraud and against misleading claims for payment. The provider should notify the Department immediately if it suspects that any serious irregularity or fraud has occurred or is occurring. Providers have to pay back any amounts received through fraud by their staff and can be charged damages.

Recovering Overpayments

2.8 The Work Programme controls enable the Department to estimate the value of fraud and error, and to recover overpayments based on those estimates.

Provider assurance teams

2.9 The Department introduced provider assurance teams in October 2009. The teams give assurance that payments are made in accordance with the Department's requirements, that public funds and participant data are protected, and value for money has been obtained. Provider assurance teams visit providers to examine governance arrangements, service delivery, financial procedures and data security.

Other teams

2.10 There are three other teams that visit and monitor contractors:

- Compliance monitoring officers visit providers that receive European Social Fund money to examine contract delivery and that they meet the fund's² regulatory requirements.
- Supplier contract assurance teams check compliance with data security standards.
- Although not strictly an anti-fraud control, in future teams will inspect whether providers comply with the Merlin Standard that regulates the relationship between prime contractors and subcontractors. The Department expects that inspections in respect of Work Programme providers will begin in May 2012.

Internal audit and investigations

2.11 The Department has internal auditors that review annually the controls and risk associated with fraud prevention and detection. Within internal audit there is a dedicated team that investigates allegations of fraud by the Department's staff and contractors, including providers on employment programmes. Since March 2008 the number of full-time equivalent staff employed by internal investigations has reduced by nearly 40 per cent from 81 to 49. The Department has told us that the Internal Investigations team now only leads investigations into serious or criminal staff matters (such as payment diversion or the harvesting of personal data) with less serious investigations carried out by line management. The Department has confirmed that all allegations of contractor fraud will continue to be investigated.

² The Department acts as managing authority and draws down the money from the EU. It manages the England European Social Fund (ESF) programme at a national level and takes assurance over claims' accuracy from its Article 13 activities (three levels of management checks) and Article 16 activities (internal audit) that claims are accurate and entered onto the ESF's management information system correctly. Once checks have been carried out the claim is then submitted to the European Commission for approval.

Overview of the Department's controls

2.12 With the improvements it has made, the Department now has the infrastructure for effective control. In particular the changes introduced to verify claims under the Flexible New Deal and the Work Programme are a significant improvement. These were only in place for the Work Programme, however, from the end of March 2012 and are still bedding in. We have not, therefore, been able to validate them.

2.13 Risks still remain. The smaller programmes run by the Department, such as Mandatory Work Activity, do not have the same payment controls embedded into them. In the case of Mandatory Work Activity there are no systematic, independent checks with placement hosts before payment is made that claimants have been placed with them. Without checks with employers the Department is dependent on information held by the provider and the risk of fraud remains.

2.14 Although the outcomes that trigger payments for the Work Programme are better defined, there are still some areas that are difficult to verify. One such issue is when a provider can claim attachment and outcome payments if a claimant gets a job between being referred to the provider by Jobcentre Plus and joining the provider. The provider can claim attachment fees and later any outcome fees if the claimant has not already started work and if the job start date is known. This is on the grounds that the provider may enhance the possibility of the work being sustained through providing access to funds for tools and in-work support. But if the job start date is not known (or if the claimant has started work) then the claimant cannot be attached. What is claimable as an attachment consequently depends on a set of circumstances that can be complicated to verify. This issue potentially impacts on a significant number of cases. We have no data for the Work Programme on how soon claimants move into jobs once they are attached to a provider but the Department's internal audit found, for a different programme, in June 2011, that around 8 per cent of a sample of clients spent less than one week with the provider. There is a risk that a significant proportion of these had found jobs before being attached to the provider. This would involve large numbers of people if this pattern was duplicated in the Work Programme.

Part Three

The operation of controls

3.1 This Part sets out the results of our review of the Department's operation of its controls and areas where the regime can be improved further. It also sets out the approach the Department is taking to assess the risk of fraud at A4e.

Scope of the review

3.2 Our review focused particularly on how the Department operates three key elements of fraud detection and investigation:

- The provider assurance teams are a key control. The teams have links to other departmental payments, contracting, performance monitoring and investigations teams, to gather and share intelligence on contracts and providers. They work primarily by visiting suppliers to review the systems of internal control.
- The Work Programmes Division is comprised of two teams: account management, which operates at a strategic relationship management level and assesses each provider based on a range of criteria, such as contract performance, delivery, finance, risk management and supply chain management; and performance management focusing on ensuring that providers deliver on their contractual promises.
- Internal audit's investigation team responds to all allegations of fraud and irregularity in contracted employment provision. It assesses each referral before deciding whether there is sufficient evidence to initiate an investigation.

Results

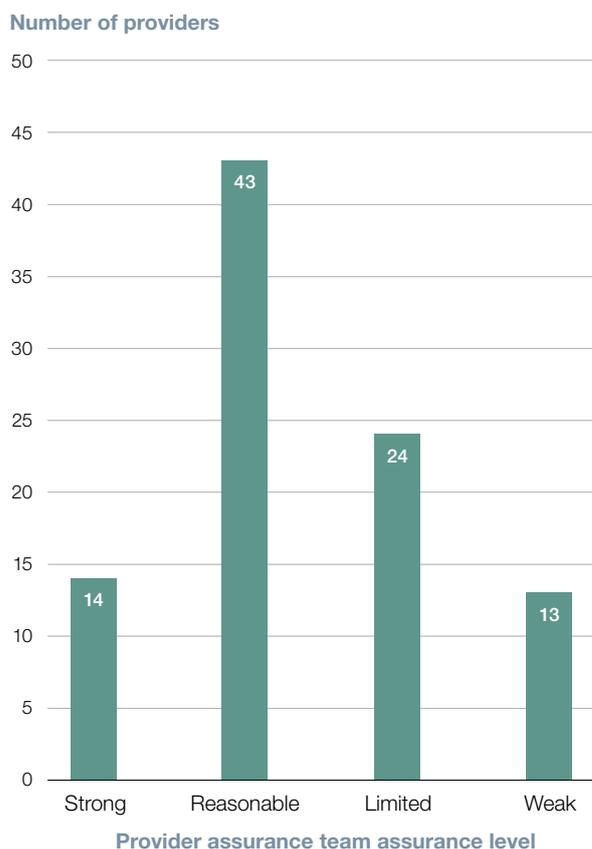
3.3 There are areas where more can be done by providers and the Department to improve controls.

Improvements in providers

3.4 Of the 94 reviews completed by January 2012 by the provider assurance teams, only 61 per cent of providers achieved a ‘strong’ or ‘reasonable’ level of assurance (Figure 7). The teams’ January 2012 ‘scorecard’³ report, which did not cover Work Programme provision, concluded that, “*the current spread of assurance levels indicates that the Department cannot be confident that providers are managing the risk to the Department’s expenditure to acceptable levels as nearly half of assurance levels awarded for providers delivering current contracts are ‘weak’ or ‘limited’.*”

Figure 7

Provider assurance team assurance opinions, 2010–2012



Source: National Audit Office analysis of Department for Work and Pensions data

³ Quarterly management information on the effectiveness of the provider assurance team.

3.5 The Department is examining the results of reviews of providers of the Work Programme to identify systemic issues. This analysis is based on a relatively small number of reviews, mainly where risks are higher, so they may not be representative. However, the analysis identified that:

- Improvements could be made to providers' management of supply chains.
- There is less evidence of robust controls to ensure quality of customer journey and experience.
- Providers are not assessing effectively the risk that their performance regimes generate perverse behaviour.

Improving the Department's processes

3.6 The Department has the infrastructure for effective controls to manage its contracted employment provision but there is scope for improving its effectiveness.

The Department does not obtain some key information

3.7 The Department's provider assurance team does not routinely obtain all relevant internal audit reports from providers but does request evidence during reviews of providers to support assertions of governance. Obtaining such reports would enable the Department to evaluate how well internal audit was covering key risks and what its conclusions are. Not obtaining these reports is a significant weakness.

Dealing with providers' mistakes

3.8 Testing undertaken during provider assurance team reviews can identify cases where payments have been submitted without the appropriate evidence. For example, one inspection found 32 cases where a provider had wrongly claimed payment for claimants that had already found jobs when they were accepted onto the provider's programme. In another case, as a result of introducing the off-benefit check, the Department initially rejected 29 per cent of Flexible New Deal provider claims in the period April to August 2011. Claims that failed this initial control were only paid following the receipt of further evidence to support the claim. As these checks were made before payment, no recovery action was required.

3.9 Following the introduction of the Work Programme, these controls have been strengthened; in addition to pre-payment off-benefit and independent employer checks, the Department will sample the payments made (including with employers) and extrapolate any errors to estimate the total amount paid incorrectly during the sample period, which is then recovered.

Over-relying on provider self-assessment and follow-up

3.10 The Department asks providers, where necessary, to undertake work to quantify the extent of weaknesses identified by the provider assurance team when they are testing a provider's control system. An Internal Audit review on Employment Programmes in 2010 reported that there was over reliance on provider self-assessment and improvement action plans were not adequately monitored. We also found examples of providers being asked to check the extent of weaknesses found by provider assurance teams.

Training

3.11 With the exception of internal audit, many of the staff involved in the Department's controls work have not received fraud awareness training. Such training could increase contract and performance management's, and provider assurance teams', awareness of potential fraud risks when considering provider systems. This may then trigger further investigations.

Fraud risk assessment

3.12 Although there are several occasions where the Department's various teams share information this could be done more systematically. For example, when teams complete investigations, there is scope for a wider and more systematic consideration of systems and controls that may have contributed to the fraud. Internal audit is developing a thematic threat assessment approach. However, an automatic follow-up by provider assurance would increase its understanding of whether the provider has adequate and effective controls to prevent further fraud.

Varying the inspection regime

3.13 Provider assurance teams do not undertake unannounced visits to providers, in part because it believes such visits could have an adverse impact on its ability to maintain good relationships with providers. While good relationships are important, identifying fraud can sometimes depend on swift access to relevant documentation. Giving warning of inspections can enable providers to present an unrepresentative picture.

Greater transparency

3.14 There is little information published on fraud risks and cases. In response to a recommendation of the Work and Pensions Committee, the Department agreed, in October 2010, to publish an annual report on contracted employment provision, which:

- provides much of the information that would be contained in individually 'redacted' reports about wrongdoing;
- sets out volumes and types of offending, including trends; and
- identifies lessons learnt and proposed responses.

The Department intends to publish the first of these reports in the second half of 2012.

Protocols on how the providers should act

3.15 The Department told us that providers have sometimes dismissed staff before the Department concluded its own investigations. The Department has limited influence over how providers deal with their employees and considers its current approach to be reasonable. Early dismissal can, however, potentially lead to investigations being compromised. There are currently no protocols setting out working relationships between providers and investigators.

3.16 There is no single whistleblower line through which individuals can report allegations of fraud about providers. Individuals can make allegations through a number of avenues including their contact at Jobcentre Plus. However, without a single publicised line independent of the people handling their case, there is a risk individuals will be reluctant to do so.

Controls regarding A4e

3.17 Over the last five years A4e has been the largest provider of employment services to the Department. At the end of April 2012, the Department had 12 major contracts⁴ with A4e with an average annual value of £78.3 million (**Figure 8**).

Allegations of fraud by A4e employees

3.18 Following the Committee of Public Accounts' evidence session on the Work Programme in February 2012, the Chair of the Committee received allegations concerning A4e ranging from fraud to poor quality of service. The Chair of the Committee was also sent a copy of an A4e internal audit report. The Chair passed 25 allegations and a copy of the internal audit report to the Department for investigation.

3.19 In February 2012, an investigation into potential fraud on a European Social Fund contract at A4e's Slough office was made public when the police arrested former members of A4e's staff. Following a series of media stories and allegations, which A4e considered to be inaccurate, A4e appointed the legal firm White and Case to audit A4e's controls and procedures.

3.20 A further allegation of attempted fraud was made concerning A4e staff working on a Mandatory Work Activity contract for the Department. The Department initiated its own enquiry on 9 March 2012 to assess A4e's controls designed to prevent and detect fraud and irregularities on the Department's four current programmes (the Work Programme, New Enterprise Allowance, Mandatory Work Activity and Jobcentre Plus Support Contracts) (**Figure 9**).

⁴ Excludes New Enterprise Allowance contracts.

Figure 8

A4e Estimated annual values of current contracts

Programme	Area Covered	Average annual value (£000)
Work Programme	East Midlands	17,390
	North West – Merseyside, Halton, Cumbria, Lancashire	16,855
	East London	11,906
	Thames Valley, Hampshire and Isle of Wight	10,526
	Yorkshire and the Humber	9,915
Jobcentre Plus Support Contract	London	5,883
	West Yorkshire	1,449
	Hampshire and Isle of Wight/Berkshire and Buckinghamshire/Oxfordshire	1,399
	Black Country	1,014
	North and Mid Wales and South East Wales	870
	South Yorkshire and Derbyshire	513
Mandatory Work Activity	Hampshire and Isle of Wight, Thames Valley, Kent, Surrey and Sussex	664

NOTES

- 1 The contract values are estimated as they depend on the number of outcomes achieved.
- 2 A4e also has New Enterprise Allowance contracts for Birmingham and Solihull, South East Wales, South West Wales and West Scotland.

Source: Department for Work and Pensions

Figure 9

Terms of reference of the Department's review of A4e

The review will assess whether internal controls within A4e are adequate and effective to ensure that:

- the provider only makes claims for payments when it is entitled to do so; and
- complete and accurate evidence is available to substantiate the basis of all claims.

The work includes:

- mapping of key control processes and compliance testing;
- substantive testing of a sample of claims made for payments under each contracted programme to determine the validity of each claim;
- interviewing relevant employees at all levels throughout the company; and
- reviewing any remedial actions planned or recently introduced to improve control.

Source: Department for Work and Pensions

NAO's review of the Department's assessment of A4e's controls

3.21 We have not attempted to duplicate the work the Department and White and Case, or the Department's follow-up of the allegations and internal audit report referred to them by the Chair of the Committee of Public Accounts. We have, however, reviewed the data relating to recorded fraud allegations at A4e and examined the assessment of A4e's controls made by the Department.

Reported fraud at A4e

3.22 Between April 2006 and March 2012, the Department's internal audit and investigations team accepted 10 allegations of fraud and improper claims by A4e for investigation. These included allegations of falsified documents, wrongdoing or some form of irregularity, for example, unsubstantiated claims for payment.

3.23 Nine investigations into A4e have been concluded, and evidence to support the allegation was found in five cases. In these substantiated cases, there was a total identified loss of £67,993, of which £61,897 was directly attributable to inappropriate activity. The full amount was recovered. One case is on-going.

The Department's assessment of A4e's controls

3.24 The most recent assessment of A4e's controls was made by the Department's provider assurance team in May 2011. A further review is currently under way with an inspection visit planned on 21 May 2012. The key finding, was that the Department could not satisfy itself that all risks are being adequately managed in A4e and its supply chain.

3.25 In coming to its assessment the team did not see vital evidence. In particular, the team did not ask to see all A4e's own internal audit reports as they do not routinely ask for copies of audit reports. The Department told us that this is because the aim of the provider assurance team is to establish the effectiveness of the providers' systems of control and the information requested from providers to demonstrate an effective audit regime can vary. Consequently, the team did not obtain the internal audit report that was later sent to the Chair of the Committee of Public Accounts. In a submission to the Work and Pensions Select Committee in September 2009,⁵ A4e referred to its own audit, so knowledge of it was in the public domain. In their evidence to Committee, A4e set out that it was reviewing the 20 highest performing recruiters (who support claimants in finding work) across its New Deal contracts.

3.26 Information in the internal audit report would have been important for the provider assurance team's assessment of A4e's controls. The information records that, of the 224 cases examined, nine cases represented potential fraudulent activity with a further seven representing reputational risk to A4e. The report highlights the possible systematic failure to mitigate the risk of fraudulent and irregular activity at individual offices and regionally. While this is significant in itself, finding such a high error rate in a sample would normally lead auditors to carry out further tests to establish the total size of the problem. It might also have led the Department to carry out similar testing at other providers.

3.27 A4e told us that following the initial report by its internal audit it carried out investigations which confirmed that only a total of five cases were invalid. It considers that the term fraud is used inappropriately in the initial internal audit report as the evidence typically pointed to claims being invalid rather than fraudulent.

3.28 The Department told us that it was not offered the report by A4e. It confirmed that it was told of five but not all, of the cases included in the initial report and A4e repaid just over £4,000 in respect of the five cases. The Department is following up the cases set out in A4e's internal audit paper in tandem with its wider investigation of its contracts with A4e.

Part Four

Improper practice in employment programmes

4.1 This Part examines the Department's controls to detect and handle improper provider practice in employment programmes, particularly on the Work Programme.

4.2 The Department's expectations of provider behaviour and activity are included in a range of documents, guidance and codes of conduct (**Figure 10**). Setting these out in a single place could provide a clearer guide to providers of how to abide by the terms and spirit of the contract. This would clarify to claimants the level of service they should expect to receive.

4.3 The Department has no precise definition for improper provider practice in its contracted employment programmes. The Department believes that to do so could limit its scope to investigate future allegations. The Department considers provider activity and behaviour that goes against a programme's objectives as improper. These can range from those that fall slightly short of fraud, through sharp practice, to poor service. Examples of alleged improper practice that have come to light in correspondence to MPs and in the media are set out in **Figure 11** on page 32.

Minimum service standards

4.4 An important control against improper practice in the Work Programme is providers' minimum service standards. Each provider has published its own individual set of minimum service standards. They set out, for example, the frequency of contact and nature of support a claimant can expect from the provider. The minimum service standards vary considerably between providers and are often not quantifiable or measurable.

4.5 Minimum service standards alone provide limited coverage of the issues raised in alleged improper practice, as set out in **Figure 12** on pages 32 and 33. To mitigate against the risk of poor service, and to better inform claimants about the level of service claimants should expect, each claimant, on referral to the Work Programme, receives from their Jobcentre Plus adviser the provider's marketing material setting out the provider's delivery model, minimum service standards and complaint process. The advisor should also explain the claimant's rights and responsibilities whilst on the programme. There is a fortnightly meeting between claimant and Jobcentre Plus adviser (paragraph 4.15).

Figure 10

Department's expectations of provider behaviour

Source	Behaviour	Expectations
Framework agreement for employment related support services	Meet the needs of all claimant groups	Provision will fully address the needs and barriers across all claimant groups in every locality.
Work Programme Contract	Ensure minimum service standards	Services will meet or exceed providers' minimum service standards at all times.
	Maintain standards in public life	Provider shall consistently deliver services which observe the highest standards of efficiency, economy, courtesy and consideration.
	Adhere to quality standards	Provider shall consistently comply with the quality standards and maintain accreditation with the relevant quality standard's authorisation body.
	Handle complaints	Provider shall have a procedure for handling complaints from claimants and, if they cannot be resolved, refer them to the Independent Case Examiner.
	Avoid perverse incentives	Provider will ensure it does not install performance management processes that create perverse staff incentives.
	Maintain the Department's reputation	Provider should not do anything that may damage the Department's reputation.
Provider guidance (sets out the role of organisations delivering employment programmes)	Assess and improve quality	Providers to have effective processes and policies to review and assess service quality and claimant experience.
		Claimant experience is to be routinely used to identify and implement continuous improvements to quality of service delivery through using claimant complaints and feedback.
		Quality assurance activity is monitored and analysed to inform and improve service delivery.
Code of conduct the Department's key values and principles of provider behaviour)	Safeguard vulnerable groups	Policy and processes operate effectively to safeguard vulnerable groups.
		Achieve quality outcomes
Merlin Standard (industry standard of supply chain management)	Monitor and improve quality	Providers have effective and proportionate processes, policies and activities to monitor service quality and claimant experience within the supply chain.
		Providers use findings to improve service delivery.
Wider legislation	Avoid 'parking' disadvantaged claimants	Compliance with Equal Opportunities legislation and attain results across a diverse range of claimant groups.

Source: Department for Work and Pensions documentation

Figure 11
Examples of alleged improper practice in the Work Programme

- Claimants bullied into signing an agreement to supply prospective employers' details, for the provider to claim a job outcome payment.
- Providers pursuing claimants for the contact details of their new employer despite the claimant gaining work without provider's help.
- Providers failing to honour scheduled appointments with claimants, at cost to the claimant.
- Providers not contacting claimants or giving any support to find employment (parking¹).
- Providers compelling claimants to work in inappropriate, unpaid placements.
- Providers sending clients covertly to non-Work Programme charities for free help without paying the charity for it.
- Providers attaching claimants to the Work Programme who have found employment since being referred to the programme by Jobcentre Plus but did not notify the provider of that prospective employment.

NOTE

¹ Parking describes where participants receive support that ranges from minimal services to no support.

Source: National Audit Office examination of correspondence complaints

Figure 12
How minimum service standards relate to allegations¹ of improper practice on the Work Programme

Allegation of improper practice	Minimum service standards coverage across 18 Work Programme providers	Gaps in coverage
Bullying claimants	Six explicitly state they will deliver a polite and friendly service.	Twelve make no commitment to deliver services with courtesy. No provider refers to claimants having to sign contact agreements in order for the provider to claim payment.
Providers pursuing claimants for the contact details of their new employer		No coverage
Providers failing to honour scheduled appointments at cost to the claimant	Six will reimburse claimants for attending appointments.	Twelve do not state they will provide financial support to claimants to attend provider meetings.

Figure 12 *continued*

How minimum service standards relate to allegations¹ of improper practice on the Work Programme

Allegation of improper practice	Minimum service standards coverage across 18 Work Programme providers	Gaps in coverage
Claimants receiving no support (parking)	<p>Initial contact</p> <p>Four will make initial contact by phone within two days of referral; one within three days of referral; three within ten days; and two within 15 days. Three state they will make a welcome call but do not specify when.</p>	Five do not mention the timing or method of the initial contact.
	<p>Initial face-to-face meeting</p> <p>Three state that the initial contact will take place within ten working days of the referral; three state 14 working days; three state 15 working days; one states 20 working days. Three do not state when initial meeting will take place.</p>	Five do not mention an initial meeting with a personal adviser.
	<p>Meetings with personal adviser</p> <p>Eleven state that a personal adviser will meet with the claimant every fortnight; four commit to a meeting every month; one states that every customer will meet with a personal adviser regularly but does not specify how often.</p>	Two do not mention a regular meeting with a personal adviser.
	<p>Other pre-work contact</p> <p>Two state provision for claimants to get in contact.</p>	Sixteen do not state that they will offer extra pre-work contact to customers.
	<p>In-work support</p> <p>Three provide either call centres or some other method that claimants can use to contact the provider for support and advice once in work. Of these, only one will contact claimants based on the risk profile of the claimant.</p> <p>One will contact claimants regularly; one provides access to online learning support; and one will provide a 24-hour independent helpline for advice.</p>	Thirteen do not state that they offer in-work support.
	<p>Support for harder-to-help individuals</p> <p>Thirteen offer additional support for customers that face substantial barriers to gaining work or a bespoke programme of support.</p>	Five offer no additional support or a bespoke programme of support for customers that face substantial barriers to gaining work.

NOTE

1 See Figure 11.

Source: Available at: www.dwp.gov.uk/docs/provider-minimum-service-delivery.pdf

Detecting improper practice

4.6 The Department's approach to managing contracts differs from how it procures Work Programme providers. The procurement approach, known as 'black box'⁶, stipulated outcomes, but did not prescribe how provision should be delivered, to give providers freedom to decide how to support claimants. The Department does not apply this approach to overseeing delivery. It expects providers to maintain the standards and principles set out in Figure 10, and the Department monitors whether:

- current delivery reflects the delivery model proposed in the original bid, considering any changes agreed since the Work Programme went live;
- providers are meeting their minimum service standards; and
- provider activity meets with both the terms and spirit of the contract.

4.7 The Department's mechanisms to detect improper practice on its contracted employment programmes are set out below.

Performance management

4.8 Performance managers monitor day-to-day issues on delivery and provider performance improvement. Other parts of the Department's provider oversight, such as the provider assurance teams, Jobcentre Plus and complaints, provide information to performance managers.

Provider assurance teams

4.9 The provider assurance teams review providers' systems and internal controls to assess whether, for example, a customer's individual needs are adequately identified, assessed and catered for. They also reviews the risk associated with providers 'maximising profits' at the expense of service delivery.

4.10 The provider assurance teams' approach to getting assurance about providers' complaints processes are not sufficiently thorough. The provider assurance testing schedule requires a 'walk through' of providers' complaints processes. In practice, these reviews only look at the shape and structure of the process and do not examine how a range of actual complaints have been handled.

Compliance monitoring officers

4.11 Compliance monitoring officers follow a plan of visits to providers and complete a random sample of 25 customer records per month for each contract. These checks assess whether claimants are supported throughout their time on a programme in a way that is consistent with the provider guidance and the programme's delivery model as set out in the contract.

⁶ 'Black box' refers to the Department defining the outcome but not prescribing how that outcome should be achieved or delivered by a provider.

Complaints

4.12 Complaints serve an important function in highlighting improper practice. Under previous schemes, the Department's approach to handling complaints against providers lacked clarity on who was responsible for resolving them. Under the Work Programme, the responsibility now clearly rests with the provider. All claimants joining the Work Programme should be made aware by the provider of the minimum service standards, plus any additional support relevant to their needs. Claimants should also be given information on how to make a complaint.

4.13 The Department has partial visibility over complaints against providers. Prime contractors must operate a claimant complaints process. Claimants should raise issues with their provider in the first instance, which, if unresolved, will be referred to an independent case examiner. The Department does not collect information on the number of complaints received directly by providers, although it can review prime contractors' records on complaints and resolutions, and complaints are discussed at monthly performance reviews.

4.14 Unresolved complaints are referred to the independent case examiner, which, if upheld after investigation, could ultimately lead to the provider contributing £5,000 in costs plus any financial redress to the claimant deemed appropriate. The Department has visibility over the number and nature of these complaints. To date, the Independent Case Examiner has accepted around a dozen complaints. Details of the number, type and outcome of complaints will be published by Independent Case Examiner in August 2012.

Jobcentre Plus

4.15 Claimants may discuss progress and report issues to their Jobcentre Plus adviser at their fortnightly meeting. If the claimant wishes to lodge a complaint about a provider, Jobcentre Plus will direct them back to the provider. Only where a complaint wholly or partially relates to itself will Jobcentre Plus lead on resolving that complaint. Advisers are expected to report any issues raised by claimants to a third party manager who may escalate issues to the relevant performance manager. This information is not routinely collated and escalated to performance managers. As a consequence, there is a risk that performance managers do not have a complete picture of a provider's behaviour and activity.

The Department's action when it discovers improper practice

4.16 The Department's approach to managing the risks of improper practice is evolving with suggestions for improvement from a variety of departmental sources. There is no single definition of improper practice to serve as a clear guide for providers. This means that the Department regularly updates provider guidance to reinforce and clarify the purpose of the programme and their interpretation of how providers should deliver services (**Figure 13** overleaf).

Figure 13

Examples of updates to provider guidance

Detected issue

Uncertainty around the treatment of Work Programme claimants who receive a job offer between referral and attachment.

Work Programme providers unclear about their responsibilities towards paying travel expenses to claimants.

Department action

Produced guidance to clarify the processes to be undertaken should a claimant receive a job offer between their Work Programme referral interview, and before attachment.

Produced guidance clarifying providers' responsibilities in the contract, stating providers explain to claimants the requirements for evidencing travel and other relevant expenses.

Source: Department for Work and Pensions documentation

4.17 The Department has a single performance improvement framework with sanctions to take action against a provider that fails to meet the terms and spirit of the contract. Action could ultimately lead to contract termination. It is unclear how effectively the sanctions will handle cases of improper practice. The case for taking action against improper practice is always considered within the context of wider performance that may take precedence; for example, failure to meet contractual performance targets.

Appendix One

Methodology

Our methodology consisted of:

Method	Purpose
<p>Interviews</p> <p>Semi-structured interviews with Department staff, including the provider assurance teams, contracted customer services directorate and internal audit and investigations.</p>	<p>To understand the Department's controls. We explored the roles and responsibilities of, and interactions between, the various teams.</p>
<p>File review</p> <p>Review of departmental documents, including providers' contracts, internal audit reports and provider assurance team reviews.</p>	<p>To understand how providers are managed, and how the Department sets out its expectations to providers. Also to assess how the Department has identified issues.</p>
<p>Data analysis</p> <p>Analysis of departmental data, including details of contract value and data on allegations of fraud and improper practice.</p>	<p>To understand the size of contracted employment provision in the Department and the scale of complaints and fraud investigations.</p>
<p>External experts</p> <p>We used the knowledge and expertise of external specialists in the field of fraud and improper practice. This included members of the National Fraud Authority, the Fraud Advisory Panel, CIFAS, and Interchange Solutions.</p>	<p>To advise on our scope and methodology, and to provide good practice examples.</p>
<p>External input</p> <p>We commissioned Moore Stevens to provide advice on the Department's controls.</p>	<p>To determine good practice in handling fraud and to assess the gaps in the Department's controls.</p>
<p>Case studies</p> <p>Review of issues raised by provider staff and claimants.</p>	<p>To provide examples of alleged improper practices.</p>



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