

## **EXPLANATORY MEMORANDUM TO**

### **THE DRAFT JOBSEEKER'S ALLOWANCE (SKILLS TRAINING CONDITIONALITY PILOT) REGULATIONS 2010**

**2010 No.**

1. This explanatory memorandum has been prepared by Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 This instrument introduces the Skills Training Conditionality Pilot for Jobseeker's Allowance claimants. The aim is to test, over a period of 18 months, if conditionality (added responsibility over length of benefit claim) improves participation on skills training and leads to better employment prospects.

2.2 The Skills Training Conditionality Pilot is a scheme for training for certain Jobseeker's Allowance claimants aged 18 or over.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The objective of the pilot is to assess whether requiring Jobseeker's Allowance claimants to take part in training, with the potential application of sanctions for non-participation, has an impact on claimants entering long term employment.

4.2 The pilot will be conducted in 11 Jobcentre Plus (JCP) districts which will also be operating the new Jobseeker's Regime and Flexible New Deal (JRfND) which consists of four stages of increased support the longer a customer claims benefits. This pilot will fit into stage three (in other words the sixth month point of benefit claim), where customers receive more intensive and personalised help, skills assessment and confidence building.

4.3 The pilot is also dependant on the proposed Social Security (Claims and Information) (Amendment) Regulations 2010 coming into effect on 29 March 2010. This allows training providers to share customer information without the need to obtain informed consent.

5. **Territorial Extent and Application**

5.1 This instrument applies to England.

## 6. European Convention on Human Rights

The Minister of State for Employment and Welfare Reform has made the following statement regarding Human Rights:

In our view the provisions of the Jobseeker's Allowance Skills Training Conditionality are compatible with the Convention rights.

## 7. Policy background

7.1 The Leitch Review of Skills '*Prosperity for all in the global economy – world class skills*' ([http://www.hm-reasury.gov.uk/leitch\\_review\\_index.htm](http://www.hm-reasury.gov.uk/leitch_review_index.htm)) published in 2006, recommended that adult skills should be increased at all levels and that there should be strong integration of the employment and skills systems. Skills and qualifications play an important role in improving labour market outcomes, both for individuals and society. In addition, the impact of labour market disadvantages on employment chances (e.g. for ethnic minority groups and individuals with disabilities) is less for those who are better qualified, so improving an individual's qualification level may be a useful step in the process of entering or re-entering the labour market (R Berthoud '*Multiple disadvantage in employment: A quantitative analysis*', Joseph Rowntree Foundation 2003 - <http://www.jrf.org.uk/publications/multiple-disadvantage-employment>).

7.2 The Government have committed to take the legislative powers necessary to pilot requiring Jobseeker's Allowance (JSA) customers to address skills needs that could be preventing them from competing effectively for work as one of the conditions of receiving benefits. The proposed regulations will test skills conditionality for those customers for whom skills have been identified as a key barrier to competing in the labour market. Four types of training will be included in the pilot:

- Basic Skills and English language for speakers of other languages;
- Employability skills;
- Short, job focused training of up to eight weeks; and
- Other job related provision available through Further Education and other Learning and Skills Council providers.

7.3 The main customer group for the pilot will be those people aged 18 and over who have claimed JSA continuously for 6 months. In addition, the following groups will be fast-tracked as soon as they make a claim:

- Customers who have claimed JSA for 22 of the previous 24 months;
- 18 year olds who have been out of education, employment or training (NEET) for 6 months prior to claiming, or whose 'NEET' period and JSA claim together total 6 months; and
- Customers in disadvantaged groups may volunteer for early access. This group will be subject to the same regime of obligations and sanctions that apply to jobseekers that have been mandated to early entry. Customers will receive this information before taking a decision on early entry.

7.4 In pilot areas, where suitable full-time or part-time training is available, the customer will be randomly assigned to either a control group or a treatment group. Suitability of training is established by determining that:

- the training is **appropriate** to meet the individual's and employer skills needs (i.e. is demand-led);
- the training is **flexible** enough to meet the individual's personal circumstances. This could mean either part-time or full-time training. However, customers will not be required to attend training for more hours than they are available for employment, and for the total number of hours for which they are available as recorded in their Jobseeker's Agreement; and
- the training is **available** in a reasonable time period. That is, generally that part-time training can be completed before the customer is due to enter the next stage of JRfND, if still unemployed at the 12 month point in their claim.

7.5 The control group will be referred to training with no potential sanction to their benefit, should they not participate. Customers in the treatment group will have skills conditionality applied to their benefits. As a consequence, a sanctions regime will apply. A JSA customer may lose their JSA, or in the case of a joint claim have their JSA payments reduced in the following circumstances if they, without good cause:

- Do not attend a pre-entry interview;
- Give up a training place;
- Refuse or fail to apply for or accept a place on training;
- Neglect to avail themselves of a reasonable opportunity of a training place; or
- Lose a training place due to misconduct.

7.6 The training must have been included in the customer's Jobcentre Plus Action Plan, showing the work focused activities the claimant and Jobcentre Plus adviser agree should be undertaken in order to move the customer into employment. Once the adviser has identified a suitable training course, the individual will be informed in writing that if they do not participate in the mandatory activities of the pilot, their JSA could cease to be payable or be payable at a lower rate.

- Consolidation

7.7 This instrument is only for the purpose of conducting the pilot and not for national roll out at this stage. The pilot will be evaluated qualitatively and quantitatively to give an informed decision about whether national roll out should be undertaken. The evaluation will conclude two years after the pilot ends and therefore consolidation can only realistically be considered at that stage.

## 8. Consultation outcome

8.1 DWP would like to have conducted a full formal consultation specific to this pilot but the time constraints for this pilot did not permit this. However, the policy behind this pilot was set out in the Green Paper '*No one written off: reforming welfare to reward responsibility*' (<http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/no-one-written-off/>) and a number of responses made reference to the policy on skills conditionality, which is the subject of the pilot. Of these

responses, 40% were in favour of skills conditionality whilst 50% were against it. From those who were against skills conditionality, 40% were concerned about the effect this may have on claimants with mental health issues. As claimants with a history of mental health issues are rarely on Jobseeker's Allowance, the risk of harm to this customer group is greatly minimised and therefore should not be a major factor against the pilot.

8.2 In addition, the Department has directly consulted the Trade Union Congress (TUC) and the Confederation of British Industry (CBI) and both of these organisations were subsequently directed to a consultation held by the Social Security Advisory Committee (SSAC). Furthermore, the Welsh and Scottish authorities have already given their views at ministerial level, where they both acknowledged and gave favourable comments regarding the general direction of welfare reform but also voiced their concerns about the benefits of mandating to skills training. Both devolved authorities would like to observe positive results from the pilot before wishing to implement it in either Scotland or Wales.

8.3 SSAC conducted a public consultation between 6 July 2009 and 3 August 2009 and received 12 responses in total. Views expressed ranged from full opposition to the pilot (from TUC), through to understanding that mandated provision can be effective at ensuring customers attend provision (from Tomorrow's People). In their report following this consultation, the committee's advice was that the pilot should not proceed. However, should the pilot go ahead, the made a series of recommendations:

- i. That the pilot does not begin until the quality of Integrated Employment and Skills (IES) interventions has been fully evaluated;
- ii. That sufficient resource is in place, preparations made and training undertaken, to ensure it operates effectively in the field;
- iii. Systems should be in place to monitor and manage the level of advisor discretion within the pilot;
- iv. Departmental analysts should reconsider the design of the randomisation element of the pilot; and,
- v. A customer information strategy should be in place, offering clear and complete information to both customers and staff about the pilot.

8.4 In response to these recommendations, Jobcentre Plus has confirmed that IES has reached a 'steady state' status in trial areas and is working relatively smoothly. In addition, DWP has delayed the start of the pilot until 26 April 2010 to ensure that Jobcentre Plus (JCP) advisors are more familiar with the new regime. Also, the extra staff recruited over the last year should make sure that JCP will be able to handle any extra work for JCP. Additionally, stakeholders (including JCP, Learning and Skills Council, Department for Business Innovation & Skills and HM Treasury) have been involved in the policy design from the beginning, ensuring that all departments are consulted on, and aware of, pilot details. As well as this, checks will be put in place to allow JCP/DWP to spot early on if there are any problems around identifying skills gaps and course referrals and make any amendments to the pilot design. These checks will also allow JCP/DWP to monitor the randomisation being conducted by advisors. DWP is also committed to producing formal guidance for JCP advisers, LSC providers and ensuring customers too are fully aware of the pilot's processes and a key part of this will be the role of sanctions.

## **9. Guidance**

9.1 Formal guidance and training will be given to Jobcentre Plus advisers so that they are aware of the referral process, the training courses available and what actions will constitute a potential benefit sanction. LSC will be issuing additional guidance to training providers so that they too are also aware of their responsibilities towards customers.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The ideal outcome is that a greater number of otherwise 'reluctant' customers are persuaded to participate and, ideally, recognise the value of enhancing their skills.

12.2 The critical success factors are, therefore:

- An improved level of attendance at and participation on skills provision;
- An improved attendance at initial basic skills assessment;
- Starts and completion of provision; and
- Job outcomes.

12.3 An additional indication of successful application of skills conditionality would be the number of sanctions being applied as a direct result of referrals to skills provision. Note, however, that this does not represent the most favourable outcome of the skills conditionality process.

## **13. Contact**

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