

## Inside the 'Black Box':

### Ten theses on Employment Services in Britain

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#### Summary

This report presents initial findings on the UK from a project funded by the Hans-Boeckler-Foundation on the marketisation of employment services in the UK, Germany, and Denmark. We present findings from interviews with front-line staff, managers, claimants groups, and trade unionists, as well as publicly available statistics and reports. We convey what is distinctive about the UK by developing ten theses on the so-called 'Black Box', the UK's highly centralised and privatized approach to organizing services.

- The Black Box is privatized but keeps marketisation within strict limits.
- The Black Box involves centralised and contracted-out government contracting. One result is the outsourcing of the DWP's relations with the voluntary sector and local government to the private sector.
- The Black Box repackages the risk of policy failure as a financial risk, to be managed with an eye to profitability.
- The Black Box is dominated by a few 'prime contractors', for which scale and scope are advantages. This kind of contracting requires both access to capital and large-scale management capacity.
- Most organizations in the Black Box operate in a volatile market segment of subcontractors, where contract termination is more common for public and nonprofit providers than for for-profit providers.
- The Black Box matters for the character of services. It contains strong tendencies toward creaming and parking, despite minimum service requirements and differential pricing.
- Performance management by the prime contractors is tight and sophisticated.
- Employment in the Black Box is disorganized, mainly due to the turnover of contracts over time and due to the mixture of different organizations involved.
- While Black Box is underperforming in terms of desired outcomes, but this may be less important for Britain's population than the unintended consequences.
- Although the Black Box is based on a political consensus of sorts, it is not permanent, and the trends that it represents neither unilinear nor irreversible. Much hinges on the ability of unions, claimants groups, and others currently marginalized in policy discussions to disrupt the status quo and provide a moral challenge to this consensus.

This paper presents preliminary findings from the MESEC project, funded by the Hans Boeckler Foundation, on the UK.<sup>1</sup> We present the UK as a ‘case’, which we compare and contrast with the two other countries in the project, Denmark and Germany. In principle, we are interested in any government-funded service to move the unemployed into, or closer to, employment. This can include training, advice, or job-placement services for the jobless, or make-work or workfare schemes. For purposes of international comparison, we focus on contracted-out services that are funded by the public employment service, the Department for Work and Pensions.

The MESEC project examines marketisation and its effects on the character of employment services for the jobless, including working conditions for front-line staff. By marketisation, we mean the introduction or intensification of price-based competition. Privatization is not the core issue; instead we are interested in commissioning practices (Grimshaw et al 2012) for work already carried out externally. In employment services this can be due to the privatization of public-sector work and to new programmes of work carried out by existing providers. Marketisation includes greater openness to new providers, through increased frequency of transactions, and/or through a stronger and more transparent price mechanism. Marketisation and privatization are neither unilinear nor irreversible, as we will show.

**Table 1: DWP-funded programmes in 2013**

Scheme	Projected annual value	Number of lots	per-year starts
Work Programme	500m	40	633,142
Skills conditionality (with SFA)	?	?	320,113
Health assessment framework	150m	5	n/a
Work choice	92m	28	19,716
Families with multiple problems (ESF)	67m	12	?
Community Action Programme	42m	18	7,000
Youth Contract	36m	12	ca. 80,000
Flexible support fund	32m	?	?
Innovation fund	10m	5-20	14,640
Mandatory work activity	8m	11	29,302
New Enterprise Allowance	6.3m	20	18,918

Source: compiled from [www.gov.uk/contracts-finder](http://www.gov.uk/contracts-finder), [www.dwp.gov/](http://www.dwp.gov/), own calculations.

What is unique about the UK is the ‘Black Box’. For readers not familiar with this term, it is used by policy experts to characterize the commissioning practices of the Department for Work and Pensions for Britain’s large welfare-to-work schemes. The Work Programme is by far the largest of these (see table 1) and the one on which we will focus in this paper. Black Box is a telling label for it because, compared to the schemes that it replaced, government asserts less direct control over providers, leading to a

<sup>1</sup> Many thanks to Genevieve Coderre-Lapalme, Fran Heathcote, Flemming Larsen, John McNally, Matthias Knuth, and Jay Wiggan for their comments on this draft at the workshop, and to Dan Dowling for written comments.

loosening of democratic accountability. Not only do contracts specify far less the details of service to be provided, they also shift most of the work of procurement and contract management to external providers. The government steers this provision using complex financial incentives.

For readers who are familiar with the Black Box, we will compare the UK with Denmark and Germany. In general, the Black Box marks the UK out as the country that has gone furthest in allowing a large-scale corporate takeover of these services. The degree of centralization and concentration in the market and the use of for-profit purchasing agents to manage provision by charities and local government are all unique to the UK. Provision is not, however, unusually 'marketised' in the sense of the state using intense price-based competition to reduce prices, increase flexibility, and otherwise discipline providers and front-line workers. Germany, for example, has gone much further in that direction.

This report presents an overview of findings from a programme of research. A more thorough treatment of these issues will be presented in the final project report and a series of journal articles. While this paper is informed by nearly 300 interviews stretching back to 2007, mainly in the UK and Germany, the focus here is on presenting findings from 30 interviews carried out in the UK since 2011 with front-line staff, operational managers, and senior executives at Work Programme providers, as well as trade unionists, claimants' organizers, civil servants, and politicians. Alongside our interview data, we use publicly available statistics and policy documents.

The rest of this paper is organized as ten theses placing the Black Box in international comparison. Theses one through three concern what the Black Box is and does. Theses four and five concern the landscape of service providers, both 'prime contractors' and their subcontractors. Theses six, seven, and eight concern management and front-line work within the providers. Theses nine and ten concern political consequences and strategy, and focus more on open questions than on comparative findings.

## 1. The Black Box is privatized but keeps marketisation within strict limits.

Because this project examines the marketisation of employment services, it is worth saying how marketised the Black Box really is. The DWP's approach to managing this market is highly centralised, in keeping with longstanding practice (Wiggan 2008), but increasingly so since 2007. Although large swathes of provision have been moved into the private sector, marketisation in the sense of price-based competition (Greer and Doellgast 2013) is sharply limited, in the following ways.

- **Transactions are infrequent.** The Work Programme contract lasts 5 years, plus a two-year period afterwards in which firms can claim job placement fees and sustainment payments.
- **The price is not mainly determined by supply and demand.** While other countries allow prices to fluctuate according to supply and demand, the Work Programme used fixed prices, determined after a long period of consultation with the sector. In some cases, however, these were reduced in the tendering process in response to the government's demand for discounts.
- **Market entry is restricted.** To be a 'prime contractor', a provider must first apply to become a 'preferred provider' of the 'framework' of provision; most traditional providers are locked out of

the framework due to a capital requirement as well as the logistical challenges of managing such large contracts. As a result, a segment has emerged with a cartel-like structure, dominated by a declining number of large providers.

- **Relations between buyer and seller are close.** In the runup to the Work Programme there was intensive lobbying by the sector of ministers, and the close exchange between private providers and the government (including civil servants) remains ongoing. This reflects the government's intention to move away from a 'contractor compliance model' to a 'strategic' model of intensive exchange of information and ideas (DWP 2008: 9). This exchange was interrupted during a period of procurement, in which channels of communication with the relevant decision makers were shut down, which bidders we interviewed found a source of frustration. There are in addition some 'exit options', in which the government can reduce referrals to underperforming providers; the government, however, depends on a shrinking number of prime contractors.
- **There is no 'customer choice'.** Because the Work Programme is mandatory for the vast majority of those referred, there is no customer choice. For prime contractors, this reduces some of the uncertainty associated with payment for performance, and therefore makes the landscape of provision less volatile.

This is a form of privatization in which the government refrains from using many of the tools available to assert market discipline over providers. This is in some ways surprising given the hierarchical nature of the British state (Wiggan 2007) and the standard classification of the UK as a 'liberal' – i.e. market-driven – political economy (Greer, Greenwood, and Stuart 2011). Instead, the state offers providers flexibility and seeks to steer their activity using financial incentives. Providers that find the most sustained jobs for the most clients will receive the most remuneration, due to performance-related payment and increased referrals.

The limited degree of marketisation in the Black Box differentiates it from funding arrangements in Germany and Denmark. In both of the latter countries, moves to centralize procurement were associated with further-reaching marketisation (table 2).

<b>Mode of transaction</b>	<b>Black box</b>	<b>Direct procurement</b>	<b>Local partnership</b>	<b>Vouchers</b>
Examples	British Work Programme	German REZ and Danish AMS	Local government grants	German <i>Gutscheine</i>
Centralization	High	Varies	Low	Low
Transaction frequency	Low	Varies	Varies	Very high
Price mechanism	Hybrid	Supply and demand	Negotiated	Fixed by funder
Openness	Moderate	Open	Restricted	Very open
Internationalization	High	Low	Low	Low
Concentration	High	Low	Varies	Very low
Relations between buyer and seller	Close	Arms-length	Close	Very arms-length
Customer choice	Low	Varies	Varies	High
Provider control	High	Low	Moderate	High

Degree of marketisation	Moderate	High	Low	High
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In Germany, for example, a professionalized procurement function within the Public Employment Service, the Bundesagentur für Arbeit, organizes competition for hundreds of contracts per year on the basis of price and quality. Relations between funder and provider are kept at an arms-length, but with an eye to ensuring that there is competition and preventing the concentration of the market. Contracts are shorter, smaller, and far more numerous, and the idea of extracting profits through employment services is controversial. While the 'Black Box' may be more marketised than some past practice in the UK, such as grant-making by local government to the voluntary sector, it is less marketised than the German placement voucher and direct procurement arrangements. Above all, the German case shows that it is possible for the public sector to create a professional in-house procurement arm and suggests that this may be imposing a tougher market discipline on contractors than the 'Black Box'.

Denmark, by contrast, followed a zigzag path, initially by centralizing commission in the hands of the national labour-market service (AMS), also an exercise in in-house capacity building, and then decentralizing commissioning. Under centralised procurement, requirements were imposed to privatize a wide range of work – including end-to-end provision of certain groups of short-term unemployed – and to introduce arms-length competitive tendering and payment by results. This led to the rapid expansion of private-sector providers, mainly small operations run by former public-sector employees. That reform, however, was been rolled back as the current social democratic government has handed more decision making power to municipalities. Some kinds of work have been brought back in-house on a piecemeal basis by some municipalities, who have also found ways around competitive tendering requirements via 'framework agreements' with incumbent providers in other municipalities. The Danish case shows that it is possible to move welfare-to-work services in-house and to replace competitive tendering with local partnership arrangements.

**2. The Black Box involves centralised and contracted-out government contracting. One result is the outsourcing of the DWP's relations with the voluntary sector and local government to the private sector.**

One unusual aspect of the Black Box is that the procurement function is contracted out. This was in contrast both to discussions within Whitehall of strengthening in-house procurement capacity (Gershon 2004) and to the longstanding trade union demand to halt privatization (Davies 2008). The centralization and contracting out of procurement was accompanied by the shift of the contracting out of local Jobcentre Plus offices, the abolition of some region-level funders in England (Learning and Skills Councils and Regional Development Agencies), and cuts to local authority budgets. These had been important funders of services carried out by small providers, often neighborhood-based voluntary-sector organizations.

The UK has a long tradition of service provision by the voluntary sector and local government (Beveridge 1942), and the policy documents that underpin the Black Box advocate continuing this tradition, at least in the voluntary sector (Freud 2007, DWP 2008). What is new is that, because of the small scale of their operations, voluntary-sector organizations and local government operate as subcontractors. Rather than contracting being handled by local public-sector managers it is handled by the DWP and large commercial organizations. The intention is to increase the degree of professionalism, but at the cost of declining local influence over services and the disruption of local networks of actors who in the past designed services.

The declining power of the nonprofit sector is by no means unique to the UK (e.g. Bode 2003; Eikenberry and Kluver 2004). Over the past few decades the trend in the UK and elsewhere has been to purchase services and to impose competition and contracts, rather than merely funding services on the basis of the nonprofit provider's affiliation with the church, employers, or unions. This matters because it weakens civil society in the political process and because it alters the way that they carry out services. This change has gone far in Denmark, Germany, and the UK. In Denmark it led to the near collapse of provision by trade unions and employers associations, and in Germany it has led to a severe price squeeze that has led to precarious employment conditions.

Where the UK *is* unique is its response to market failures. The UK is unique in both the 'flexibility' and scale of the prime contracts. In other countries governments respond to problems with contracting by reversing contracting decisions (in Denmark) and building up in-house contracting capacity (in Germany). The UK is probably also unique in purchasing welfare-to-work services from local government and the nonprofit sector mainly via for-profit intermediaries. In Germany, the relationship between local and central government in these kinds of services is regulated by a written constitution, as interpreted by a high court. The Black Box, by contrast, regulates local-government services using a private-sector supply chain subject to tight performance management and weak public regulation. The UK employment services sector is thus an extreme case of marginalizing local government and charities.

### **3. The Black Box repackages the risk of policy failure as a financial risk, to be managed with an eye to profitability.**

Another perplexing feature of the Work Programme is its financing. Funding is complex, both in terms of 'where the money comes from' and in terms of how payments to providers are triggered, making it difficult to calculate the amount of expenditure. While the public financing arrangements behind the Work Programme were supposed to free up resources for employment services by reducing spending on benefits, spending will almost certainly be well below initial estimates (Riley et al 2014). There is, however, little indication from our interviewees that this has prevented the extraction of profits, or their distribution to owners and managers, and a few well-publicized cases of large payments to the owners of these companies.

At the risk of gross oversimplification, the principle is this. Rather than setting an amount to be spent, spending on the Work Programme is calculated on the basis of predicted savings to the exchequer from

individuals being in work rather than on welfare benefits. These predicted savings are divided between the government (which saves money from paying benefits) and the contractor (which receives performance-related payments). Contracts are large, long-term, and include a very diverse range of clients; contractors enjoy flexibility to develop new kinds of services. Because these payments are potentially immense, this creates an opportunity for contractors to reap rich financial rewards from placing large numbers of unemployed, against the backdrop of a calculable risk.

Central to the logic of this model is the idea that companies contribute their capital and expertise because they are attracted by potential profits. The Freud report, for example, estimates the annual value of contracts under this regime in the billions, especially in its early phases when providers are finding work for disabled people (2007: 8). Many of the proposed changes to contracting were aimed at barriers to contractor profitability, such as contracts that were too prescriptive, small, and short-term (ibid: 52). On the other hand, a central worry of civil servants and policymakers involved in the Work Programme who we interviewed, was that the excessive risk involved would deter investors. As we will see below, the welfare-to-work bidding process did attract enough interest from the private sector for there to be competition for contracts and for the private sector to play a dominant role. This may be due to a longer-term view this market would become lucrative indeed once recruitment increases in Britain's low-wage service industries.

Performance-related pay and profit making are not unusual in contracted-out employment services internationally. Denmark at one time made 75% of payment to contractors subject to performance, and Germany has a system of placement vouchers that only triggers payments when there was a sustained job outcome. The Work Programme's design was influenced by the Netherlands, the US, and Australia. All of these countries make extensive use of for-profit contractors receiving performance-related pay.

What *is* unique is the complexity of the UK's payment system. There are three kinds of payments that can be triggered for individual clients: attachment fees (paid up front), job outcome payments (paid in arrears when evidence is submitted of a job placement sustained three to six months), and sustainment fees (paid in arrears for a job placement sustained every four weeks thereafter, for up to a year). (This could have been even more complex: Freud proposed additional payments for improving clients' skill levels, their pay once in work, other group-specific outcomes, and aiding with other targets such as reducing child poverty [2007: 69]). Pay is differentiated for nine different client groups, with payments ranging from 3700 to 13,700 in the first year. Over the course of the contract this changes. For example, attachment fees are reduced to zero, and performance-related payments become all-important. The government creates incentives and it is mainly the prime contractors who are charged with regulating front-line workers, clients, and contractors.

- 4. The Black Box is dominated by a few 'prime contractors', for which scale and scope are advantages. This kind of contracting requires both access to capital and large-scale management capacity.**

The concept of the Black Box is premised on a range of tasks managed on a large scale by a single company. Since small local organizations dominated contracting in the past, this shift required extensive re-engineering of provision. The upscaling and integration of work already being done by large numbers of small contractors required investment by a few contractors. The capital requirements and the scale of management capacity required to contract directly with the DWP exclude small organizations. Multinational corporations have a market share of 75% in the prime contractor segment of the Work Programme.

Table 3 lists the eight principal Work Programme prime contractors, which together account for 68% of expenditure. All operate on a multinational scale, and all but one are for-profit corporations. Half are based overseas – US, Australia, the Netherlands, and Ireland – and half in the UK. The three largest providers, which account for 45% of the market, are welfare-to-work specialists. The others are more generalist providers that manage a range of security, back-office, and social service contracts, among others. This list excludes an additional important DWP contractor, ATOS Healthcare, a subsidiary of a French-based company which is also a public-sector contracting generalist, whose contract – allegedly worth £115m per year (Siddique 2013) – to reassess disabled clients collapsed in Spring 2014.

**Table 3. Principal prime contractors on the Work Programme**

	WP market share	Cumulative market share	Sector	country of origin	MNC?	W2W specialist?
Ingeus	22.7%	22.7%	for-profit	US-Australia	Yes	Y
A4e	12.9%	35.6%	for-profit	UK	Yes	Y
Working Links	9.0%	44.6%	for-profit	UK	Yes	Y
G4S	6.1%	50.7%	for-profit	UK	Yes	N
FourstaR/Staffline	6.1%	56.8%	for-profit	UK-Netherlands	Yes	N
Maximus	4.2%	61.0%	for-profit	US	Yes	N
Rehab Group	4.1%	65.1%	non-profit	Ireland	Yes	N
Serco	3.9%	69.0%	for-profit	UK	Yes	N

Source: DWP data on prime contractors and company websites. Market share is based on indicative volumes at the beginning of the Work Programme

There are three ways that companies increase their scale, including internationalization and an increase in scope. A third way has to do with mergers and acquisitions within the welfare-to-work industry. The two largest charities on the Work Programme, CDG and the Shaw Trust, for example, have merged. However, there have been far more acquisitions of welfare-to-work providers by companies that are expanding into a new country or a new line of business.

The internationalization trend can be seen in table three. All of the top eight Work Programme contractors by market share operate on an international scale and half of which are foreign owned. Management interviewees at specialized welfare-to-work providers reported internationalizing in part to hedge the financial risks associated with having only one customer (the DWP). Other providers based overseas noted the attractiveness of the Work Programme's flexibility, compared to the tight

restrictions imposed in their home countries (some of which were the direct result of challenges from trade unions and claimants' groups). The most recent manifestation of the internationalization trend has been the purchase of the largest provider, Ingeus, by the American multinational Provident Services Corporation. Ingeus' owners receive US \$225m, plus up to US \$135m in payments under an 'earn-out' agreement.

The functional diversification trend can also be seen in table 3. G4S and SERCO are very large and well-known generalist firms whose specialty is bidding for and managing government contracts. Maximus is a US-based firm that similarly combines social service contracting with providing outsourced back-office functions. The full list of Work Programme bidders shows the wider range of companies that sought entry to the market: Atos and Balfour Beatty were two well-known unsuccessful bidders. Reasons for moving into the welfare-to-work market had to do not only with realizing profits in the short run; there was also a perception that the Work Programme could lead to further contracts using payment for performance, for example, in the management of ex-offenders released from prison.

The UK is unique in the degree to which power over public services is concentrated in the hands of private multinational firms. In Denmark and Germany, contracting takes place directly between government and small organizations (in Denmark at the municipal level). In Germany multinationals have tried and failed to enter the market; in interviews they have reported low prices, the decentralised character of decisionmaking, and the small and short-term nature of contracts as creating disincentives to invest.

##### **5. Most organizations in the Black Box operate in the volatile subcontracting market segment where contract termination is more common for public and nonprofit providers than for for-profit providers.**

The vast majority of the charities and local government departments carrying out welfare-to-work services are now part of the supply chains of contractors. This 'market periphery' is highly volatile, with numerous reports by interviewees of subcontractors facing bankruptcy, or at least not receiving the income commensurate with the investments that they made in the lead up to the Work Programme. This is consistent with the finding that it is not 'sector' that determines how organizations fare, but rather size, function, and location of the firm in the supply chain (Rees, Taylor, and Damm, 2013).

Table 4 shows how volatile the subcontracting chain is through an examination of tier-one contracts. Under a tier-one contract a 'prime' subcontracts the complete service (known as end-to-end) for a specific group of clients; a tier-two contract, by contrast, is for more specialized services (e.g. particular training courses, debt counselling, or drug and alcohol counselling). Tier-one contracts are less numerous, but more important for the provider, since it is far more likely to require investment that is specific to the Work Programme. They are likely to account for more spending, as well. Out of 387 of these contracts listed in January 2013, 134 were not listed in 2014, a loss of one-third of the contracts, less for private organizations and more for public and voluntary sector bodies. The private sector was also more successful in terms of holding contracts and winning new ones than the public and voluntary

sectors, with a 13% net decline in the number of contracts, as opposed to a decline of 25% for the public and voluntary sectors. (Note that none of the primes have lost their Work Programme contracts.)

	<b>Public</b>	<b>Private</b>	<b>Voluntary</b>	<b>Total</b>
Total January 2012	61	158	168	387
Contracts lost	21	47	66	134
(share Jan 2012)	0.34	0.30	0.39	0.35
Contracts held	40	111	102	253
(share Jan 2012)	0.66	0.70	0.61	0.65
Contracts gained	6	26	23	55
(share Jan 2012)	0.10	0.16	0.14	0.14
Total September 2013	46	137	125	308
(share Jan 2012)	0.75	0.87	0.74	0.80

Source: DWP Subcontractor Lists, own calculations

The system that is supposed to protect subcontractors is called the 'Merlin Standard' and includes inspections and a complaints procedure. Interviewees reported that the inspections process is in close consultation with the prime contractor and does not punish supply chain management practices that deviate from bids. The complaints procedure is rarely used, because as one interviewee intimately familiar with the process told us, 'if I went to Merlin, we'd never get work again. . . You don't bite the hand that feeds you'.

The creation of an unstable periphery of subcontractors subject to 'churn' is not unique to the UK. The German and Danish structures are also volatile. What is unique is the outsourcing of contracting to the private sector, which has allowed the prime contractors to stabilize themselves. Also unique is the segmentation that this creates in the market, with a divide between the primes (mostly private firms) and subcontractors (which is where the vast majority of incumbent nonprofit and public sector providers operate).

#### **6. The Black Box matters for the character of services. It contains strong tendencies toward creaming and parking, despite minimum service requirements and differential pricing.**

Creaming and parking is the most commonly noted market failure in contracted-out employment services, at least in those that involve job placement. Under simple pay-for-performance arrangements, the incentives for creaming and parking are straightforward. If a provider receives a payment for each successful job placement, it reaps short-term material gain from quickly placing clients who are 'close to

the labour market'; such gains are less likely when assisting 'hard-to-place' clients. The strong material incentive to allocate resources to the former and neglect the latter has serious consequences for social policy.

One way the DWP tries to mitigate this tendency is regulation via minimum standards of service. The DWP published minimum standards for each of Work Programme's contractors. The most common specific standard is a minimum frequency of contact with staff, either monthly or fortnightly, often to make and monitor job-search action plans. (Other contractors merely stipulate 'regular' contact.) Most providers also promise access to electronic resources, such as online courses, information on job openings, or an email account. Also common is a promise to quickly contact clients referred to them and convert 85%-95% of 'referrals' into 'attachments'. In a minority of cases the provider promises in general terms to cover some of the clients' costs (such as travel and childcare) to participate in the Work Programme, provide 'wraparound services' (usually through subcontractors), identify and address basic skills needs, and provide a complaints or 'feedback' procedure for clients. These guidelines give the prime contractors considerable flexibility in how they design work, especially its potentially costly aspects, and – oddly, given that these standards supposedly exist to protect clients rather than to advertise efficiency – emphasize speed, standardization, and use of IT tools.

Another attempt to prevent this is through differential pricing. The DWP divides the clientele into seven different 'price groups', classified by age and benefit claimed. Prices are highest for claimants of Employment Support Allowance who in the past received Incapacity Benefit and are required to attend and considerably lower for JSA claimants who have never received Incapacity Benefit. The intention is that providers that focus attention on those disabled clients deemed to be furthest from the labour market will reap rich financial rewards in the long run.

In our visits to front-line providers, however, we came across considerable evidence of creaming and parking. This is consistent with other qualitative studies on performance-related pay in UK welfare-to-work programmes (e.g. Hudson et al 2009; Rees et al 2013) as well as the Work Programme's own performance data. The latter reveal worse performance for ESA claimants than for JSA claimants (see below). Some of the reasons for creaming and parking are related to the material incentives and constraints created by the payment scheme (as Rees et al 2013 argue). Others are related to a broader trend caused both by incentives and cuts to public spending, in which a commercial approach to managing welfare-to-work programs has expanded alongside the decline of older models of provision.

- (1) The outcomes measured for purposes of payment are the sustained job placement, rather than the alleged causes of employment (lack of occupational qualifications, poor health, etc.) This directs the attention of the provider towards the job placement outcome and away from other expensive services that may or may not produce that outcome. This is in contrast to most procurement in Germany, where payment is for an input (a training course, a health intervention), rather than a job outcome.
- (2) The clientele of the Work Programme is diverse, and extensively assessed, categorized, and sorted. Clients are extremely diverse, with some classified as closer to the labour market and others classified as harder to assist. Unlike a more specialized program with a narrower client

group, such as procured job placement programmes in Denmark and Germany, 'cream' always exists that can be skimmed.

- (3) Profit making and contract management aggravate problems of resource scarcity and parking. While there are always limits on resources in the welfare state, this problem is exacerbated within the providers by the administrative burden and the tendency of for-profit providers to distribute profits to owners. This intensifies the need to sort clients, to divert resources towards some clients and not others.
- (4) The resource constraints of the Work Programme contracts are compounded by the additional problem of cuts in other areas, in particular those to local authority budgets that handle a large range of social services. This restricts funding for so-called 'wraparound services' to which contractors could refer clients.
- (5) The providers have considerable latitude to engage in creaming and parking as part of the 'flexibility' of the Black Box. On the one hand they are empowered to develop innovative systems to place clients in jobs. On the other hand, the minimum service requirements in place to protect the 'parked' are varied, often unspecific, and apparently unenforceable.

The flexibility of the Black Box for prime contractors may not merely create incentives for creaming and parking; it may also be allowing firms to institutionalize it. Commercial firms use their flexibility to create quick processes to more efficiently assess clients, provide basic skills training, place them in jobs, and maintain a level of contact with them – as well as taking care of other administrative work – to claim sustainment payments. These are fundamentally different from the much slower processes that are needed to serve people with complex needs. Social workers are trained to assist patients with problems that are multiple and often invisible over a long period of time. Organizations with slower processes, however, are less likely to survive in this market and have the larger problems that other kinds of social services are cut back. There is thus the rise of a commercial model of provision coupled with severe financial pressures on traditional social-service models of provision.

Creaming and parking is not unique to the Black Box. It is also a problem, for example, under the German voucher system, and for similar reasons. What is unique is the large scale on which creaming and parking is organized. Also unusual is the fact that any client who is parked is not passed back to the Jobcentre (which is what happens under the German voucher system) or referred to some other provider (the common practice in traditional local networks of providers). The latter problem is particularly acute given the inaccuracy in the reassessment process used to reclassify claimants of disability benefits as job seekers.

## **7. Performance management by the prime contractors is tight and sophisticated.**

Perhaps the key to understanding how the Work Programme is altering the character of these services is not merely the privatized profit-making nature of provision or the incentives built into funding, but rather the performance management techniques employed by prime contractors. Underpinning the

search for profits are sophisticated techniques of performance management developed by the prime contractors that shape the actions of staff, clients, and contractors.

First, work organization is characterized by top-down decision making. For each contract, there is a model of delivery that it set out in its bid and that it is responsible for rolling out over the entire territory that it covers. This is in contrast to nonprofit and local-government approaches to the same task in which services are produced at a local level and can be shaped by the professional norms of front-line staff (e.g. if they are social workers). Interviewees provided sharply diverging views on this, with some suggesting that it amounted to the rolling out of best practice and others suggesting that ‘parachuting in’ management and staff to deal with the complex problems of disadvantaged individuals was likely to be ineffective.

Second, IT systems play an important role in speeding up processes and in encouraging self-monitoring by front-line staff to focus them on targets. These systems are mentioned in most of the prime contractors’ own descriptions of their ‘minimum service delivery’ as providing access to information about job opportunities and e-learning opportunities, and they are also commonly used for assessing clients. Contractors we interviewed had, in addition, call centres that maintained contact with clients after the job placement. In addition, our front-line staff interviewees often discussed their own interactions with these systems. Nearly every provider had an electronic system to log activities, but the Work Programme providers were sophisticated in using this to promote self-monitoring of staff and the discussion of hitting targets. Interviewees at subcontractors mentioned that they were using the same systems as their prime contractor, often using computers supplied by the prime.

Third, performance management appears to be tightly linked with human resource management, which includes recruiting for attitude rather than formal qualification, disciplinary firing, and individualized pay setting. As we will discuss below, the lack of a rigorous framework for the sector is recognized by many managers as a problem. Firing staff for not hitting targets is another often-mentioned problem, although usually discussed in the context of the competition. Multiple voluntary-sector interviewees mentioned this as a reason for moving out of the for-profit sector. Finally there is variation in pay, with some providers using bonuses linked to targets. Some interviewees also viewed performance-related bonuses as divisive.

Top-down decision making, IT systems, and individualized human resource management practices are not unique to the UK. What is apparently unique is the power that Work Programme providers have to integrate a wide range of internal practices with performance management. They are aided not only by the flexibility allowed by the funder, but also by their size, the lack of strong statutory worker rights or protections, and by the lack of some entrenched professional identities.

#### **8. Employment in the Black Box is disorganized, mainly due to the turnover of contracts over time and due to the mixture of different organizations involved.**

One result of the centralization of contracting has been the creation of a self-identified ‘sector’ carrying out ‘Employment-related Services’ (Foster et al 2013), led by a few large firms. This new industry,

however, does not have a clear institutional framework governing the workplace analogous to that of the public sector. While the turnover of contracts has weakened trade unionism and collective bargaining at the few large commercial providers where it once existed, a professional body has emerged, sponsored by management. The latter is a response to disorganization tendencies brought on by the rapid turnover of contracts that led up to the Work Programme. From the perspective both of management and workers there was excessive turnover, uncertainty associated with staff transfers, and worker dissatisfaction with pay and career progression.

Trade union representation is strong in the public sector, weak in the voluntary sector, and absent at most private-sector providers. The Public and Commercial Services Union (PCS) has members in some of the large commercial organizations, concentrated in ATOS and Working Links, where there have been large numbers of transfers from the public sector. PCS, however, does not have workplace structures at Working Links, or any of the Work Programme providers. Interviewees report a gradual weakening of union structures and bargaining arrangements with each turnover of contracts, which has led to the exit of workplace activists. UNISON, UNITE, and other trade unions represent workers at the subcontractors that are part of local government, training institutions, or charities.

The role of trade unions varies between providers. In the public sector there is still traditional trade unionism with strong workplace structures and collective bargaining arrangements, albeit under pressure due to government policies to limit facility time and restrict pay increases. Outside of the public sector the trade union role is seldom to negotiate a framework of rules to govern the workplace; instead it is to resolve disputes and assist workers in employment law cases or negotiate over particular issues (such as redundancies or increasing pay at the bottom of the scale). To do this effectively without activist structures in workplaces is time consuming for trade union full-time officials and taxing on union resources. Servicing in the absence of workplace-level trade union structures thus apparently feeds into the dynamic of trade union decline.

Interviewees report other forms of worker representation, however, including a new professional body, the Institute of Employment Professionals (IEP). IEP was officially launched in 2012, with strong support from senior management in several of the prime contractors and the sector's think tank Centre for Economic and Social Inclusion (CESI). Its main function is to 'professionalize' the sector by turning front-line employment services work into a recognized profession with formal qualifications, clear career progression, and overall recognition as a profession. It has created three courses of training (up to NVQ Level 3) for employment advisors, recruitment consultants, and tutors. It sponsors networking events and organizes training, and in September 2013 it reported 3853 members. Membership costs £90 per year, which for most members is paid by the employer, and membership appears to be more common among front-line managers than among front-line staff. IEP plans to extend its membership and services into the in-house JobCentre Plus workforce (Foster et al 2013).

The decline of trade unionism and the creation of the IEP are two sides of the same disorganization process, which is brought on over multiple iterations of contracting. Here we outline on four aspects – pay, insecurity, voluntary turnover, and skills.

*Pay* for front-line is stagnant on the whole, although it is complex and variable. While collective bargaining sets pay at public sector providers, private-sector pay is determined largely through ‘benchmarking’ organized originally by private consultancy firms and now by ERSA. One large provider we visited reported in 2011 an extremely wide range of pay scales due to staff transfers from seven different organizations (in the work programme contract in the region where we collected interviews). These ranged from £16,000 to £25,000 per annum. In 2014 the same organization reported having brought salaries at the bottom up to ERSA’s estimated industry average, bringing the bottom of the scale up to £20,000. Similarly, at two other DWP contractors (not on the Work Programme), PCS representatives reported a successful living wage campaign that had brought up wages at the bottom in the face of overall wage stagnation, although they also report management unilateralism in some areas of pay setting as well as being poorly informed about pay. In the private sector, performance-related bonuses for front-line staff are widespread, though not universal; they are apparently less common in the voluntary sector, where pay is generally lower than elsewhere. Pay overall in the private sector is thus close to that in the public sector, with strong downward pressures imposed by the state in both.

Our interviewees also report widespread *insecurity*, mainly in connection with the turnover of contracts. Transfer of undertakings and protection of employment rules (TUPE) are supposed to protect workers, but in our interviews with management, trade unionists, and front-line staff over the years, we see many cases where this has been ineffective. The principle of TUPE is that workers’ terms and conditions of employment and their jobs are protected if their business is transferred from one organization to another. However, under the evolving regime of employment services contracting, its applicability is unclear, since the work changes from one contract to another. In one example, government insourcing of work did not trigger TUPE, because the DWP was shifting an outsourced task onto existing employees. In addition, employees may lose their jobs in the transfer if the personnel requirements of the new contract are lower than those of the old contract (which is usually the case.) Employees who do transfer work alongside others doing the same job but with different pay, holiday entitlements, working hours, and other terms and conditions of employment. Furthermore, for workers transferred from the civil service, TUPE merely entitles them to below-inflation pay increases of the public sector. Insecurity is not only due to the turnover of contracts. We also heard widespread reports of firing used by private-sector managers to discipline underperforming staff, often in the context of voluntary-sector managers and workers explaining why they accept lower wages than the private sector.

The flip-side of insecurity is *voluntary turnover*, including both movement within the sector and out of the sector. Our interviewees provided numerous examples of both. Many had voluntarily moved between the public, private, and voluntary sectors, often due to a preference for one sector over another. In addition, many interviewees, when we asked them about their career plans, suggested that they did not plan to remain in the welfare-to-work sector. Reasons for exiting the sector included a feeling of being overqualified for the job and disapproval of management practices, such as disciplinary firing and high caseloads. This confirms widespread worries by management and is consistent with the findings of studies commissioned by contractors in the sector.

*Formal qualifications* of staff are the fourth face of disorganization. Unlike Germany and Denmark, qualifications for staff are not written into tendering documents, and this reflects a widespread view

that formal qualifications do not capture what is needed to be effective as a front-line worker in the sector. A common qualification in the sector is Information, Advice, and Guidance (NVQ level 3). Our interviewees had backgrounds in high-street recruitment or sales and more traditional welfare-to-work providers in local authorities, the civil service, social work, charities, and private contractors. Others had come into the sector as clients. Many front-line workers we interviewed had college degrees. While this variation reflects the changing nature of work and management, including increasing requirements to achieve job placement targets, it also has several disadvantages for management and workers. For workers interviewees reported dissatisfaction due to under-utilization of skills or work organization that violates their occupational ethos (e.g. that of social work). Managers reported that it leads to workers exiting the sector due to a lack of clear career progression. Again, this is a problem that the sector is very much aware of, and has motivated the creation of IEP.

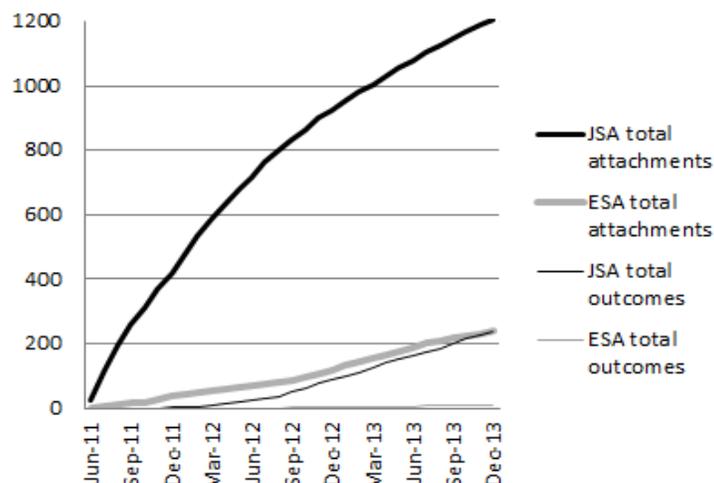
The disorganized nature of employment relations is not unique to the UK case. Germany also has a fragmented patchwork structure of collective bargaining and worker representation, although it has far stronger statutory support for worker participation at larger organizations (Greer et al 2011). Insecurity is a severe problem in all three countries, and pressures on pay are worse in Germany than they are in the UK. More than Denmark or Germany, the UK has a problem with skills in this sector, which translates into a problem of voluntary turnover. This has led to a unique effort by management to compensate by creating a professional body.

**9. While the Black Box is underperforming in terms of desired outcomes, this may be less important for workers and for claimants than unintended consequences.**

The effects and effectiveness of the Black Box are important. It is difficult to imagine a more effective machinery to select job-ready welfare claimants, present them to employers, and generate profits for public-service outsourcing companies. For the policymakers concerned with the performance of this programme and the success of the policy behind it, the main question is (supposedly) what percent of participants actually find sustained jobs. This is a much narrower focus than that of government advisors during the 1990s, who were concerned with the macro-economic effects of welfare-to-work schemes – they were said to increase flexibility and put downward pressure on wages (Nickell 1997). For trade unionists and claimants groups, this original intent of Britain’s large-scale welfare to work schemes should raise broader questions about the Black Box as a mechanism to control workers and job seekers and, more generally, to govern the labour market.

Table one shows the overall number of attachment fees and outcome payments for two large groups of Work Programme clients. During the first 26 months of the Work Programme, contractors claimed 1.2 million attachment fees for JSA claimants and 240,000 outcome payments; the figures for ESA claimants were 238,000 and 12,000, respectively.

**Figure 1. Work Programme attachment and outcome payments (in thousands)**



How the DWP and other policy experts assess this performance is complex. The standard has been the ‘Minimum Performance Level’, which is ‘the non-intervention performance level (see table below) plus 10% (for example for JSA 18 to 24 in Year 4 the Minimum Performance Level will be 44%). The precise way that this standard was calculated is unclear, but it is apparently based on experience with past programmes such as the New Deals. Minimum Performance Levels only apply to three payment groups: JSA 18 to 24; JSA 25 and over and ESA Flow (i.e. new claimants of ESA assessed as potentially work ready in the short term). Performance is measured ‘by comparing job outcomes achieved with referrals in the same period’. In table 5 we compare the minimum performance levels set out in the Work Programme provider guidance documentation with the cumulative outcomes for these groups in the first two years. The Work Programme has apparently fallen short of these standards for young JSA claimants and ESA clients, but has met them for JSA claimants aged 25 and over. Riley et al’s (2014) analysis, which is more sophisticated and includes data not available to us, comes to a similar conclusion.

**Table 5. Minimum performance levels (MPLs) and outcomes, by year.**

Jobs / Referrals		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
JSA 18 to 24	MPL	5	30	40	40	40	30	10
	outcome	2	17					
JSA 25 and over	MPL	5	25	30	30	30	25	5
	outcome	5	30					
ESA Flow	MPL	5	15	15	15	15	10	5
	outcome	3	7					

Source: DWP 2011, chapter 12, and DWP Work Programme statistics tabulation tool. Outcomes are cumulative placement rates at month 12 and 24, calculated as number of attachment payments divided number of outcome payments.

Underperformance in terms of the number of sustained jobs is the favored criticism of the effects of the Work Programme and the principles of the Black Box in policymaker circles in the UK. However, it is

worth asking two arguably more important questions, which sometimes came up in interviews with front-line staff, but for which we did not get real answers.

First, what kind of jobs are these for those who get them (i.e. the cream)? Our interviewees had varied views about the quality of jobs on offer, but they were generally critical. The vast majority of jobs were in low-wage industries such as retail, hospitality, cleaning, and temporary agencies. One line of criticism was that because low-wage, insecure jobs were difficult to sustain, they were not worthwhile for their clients. But it was unclear what the effects were in the workplace of the contractors' attempts to sustain job placements. Does intervention by the provider to sustain the job help the worker, or does it exacerbate problems at work?

Second, what are the implications of this kind of an intervention for those claimants who do not get a job (e.g. due to being 'parked')? There was a widespread view among front-line workers that 'wrap-around' services were insufficient and under-funded, and that there were large numbers of Work Programme claimants who would inevitably drop out of the programme without finding a job. (This may turn out to be the majority). But it was unclear what happened to claimants who were going through the motions of participating in the Work Programme without a likely job placement. Are they truly neglected, or do they remain subject to constant requirements to demonstrate compliance in order to avoid being sanctioned or referred to a workfare scheme?

**10 Although the Black Box is based on a political consensus of sorts, it is not permanent, and the trends that it represents neither unilinear nor irreversible. Much hinges on the ability of unions, claimants groups, and others currently marginalized in policy discussions to disrupt the status quo and provide a moral challenge to the policy consensus.**

In the UK political mainstream there is little opposition to the principles of a marketised welfare-to-work scheme facilitated by conditionality of welfare payment. The 'Third Way'-ist Labour Party essentially embraced the market as a mechanism both in economic policy and in public sector reform. The differences in policy of Labour and Conservatives (in coalition with the Liberal Democrats) are essentially of style: the Conservative emphasis is on a stern, moralistic paternalism; the Labour emphasis is on utility and results. In the light of periodic media criticism of the Work Programme and other ongoing active labour market policies, the Labour Party does not challenge the principle of coercion, conditionality and privatization, manifest in the Black Box, but have tended to denounce alleged ministerial shortcomings in the schemes' administration and excesses in sanctioning. The underlying consensus is reflected in forceful statements from our interviewees in politics and the senior civil service that a return to unconditional welfare entitlements is simply impossible.

Furthermore there are limits to what trade unions and claimants groups are accomplishing. Opposition to labour market interventions built around the Black Box has come from outside the mainstream political arena, and because the forces opposing the government's reforms are divided. Community and claimants' advocacy groups with limited financial resources, but who are highly resourceful, have mobilised opposition and raised awareness through social media, protest rallies, and direct action. Some

trade unions, particularly the PCS which draws much of its membership from state – and to a limited extent non-state – agencies in the employment services sector has articulated opposition as part of a broader campaign against austerity. Despite sharing an ostensible left-wing agenda, however, any significant cohesive alliance between interested civil society organisations and the labour movement has proven difficult. Indeed, this could be said to be symptomatic of the wider malaise of factionalism in the British left that precludes unity, particularly in the face of an apparent overwhelming neoliberal hegemony (see Little, 2010).

But the drift of policy is neither irreversible nor unilinear. In all three countries there are examples of moving work in-house and reversing marketization, such as the above-mentioned case of insourcing telephone switchboard work by the DWP. In Germany and Denmark we observe the movement of some privatized employment-services work in-house. In the UK as well there are limits to the development of the Black Box as policymakers intend.

First, there are a number of internal contradictions in the Black Box which raise numerous questions about its capacity to realise the underlying policy goals. While firms exercise tight top-down control and performance management regimes enforced by centralized, rigid IT systems, targets and operational protocols, the underpinning ideal of the Black Box is that efficacy will result from optimal discretion and local operational fit, both in contractors and sub-contractors. Rather than the workforce being encouraged to exercise professional discretion and being developed accordingly, the tightly controlled labour process and extraction of rents are having the opposite effect. In the long run the Black Box may prove to be no more effective than what it replaced, leading to another rethink in how welfare-to-work services, and perhaps related kinds of privatized public-service work, are administered.

Second, the politics of reform in the UK are contentious and confrontational and increasingly framed in moral terms. Claimants' groups have undertaken efficient and sustained campaigns against workfare, using the internet and social media to spread awareness and pressurise employers, particularly charities, that participate in welfare-to-work programmes. Also, numerous direct action events have been organised with protests at Job Centre Plus sites and Work Programme contractors. The latter protests have had a strong moral line of criticism of the industry, that it is unacceptable for a few owners of private firms to profit from the suffering of welfare claimants. The PCS' campaigns have similarly had a strong moral dimension, stressing the rollback of rights that compromise the functioning of the social security system. These could create a powerful antidote to the moralism of the government. While the power to criticize and disrupt does not necessarily translate into the power to influence, it is a form of power nonetheless that limits what the government can do.

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