

**Equality and
Human Rights
Commission**

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Public sector duty assessment of the Department for Work and Pensions through Jobcentre Plus

Report and recommendations

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Glossary

BPCs – benefit processing centres

The Commission – the Equality and Human Rights Commission

CRE – Commission for Racial Equality

DC – Diversity Challenge framework: Jobcentre Plus' own framework and guidance for meeting the duties in relation to service delivery

DDA – the Disability Discrimination Act 1995

DED – the Disability Equality Duty (see Appendix B)

DEIA – disability equality impact assessment: an assessment of the impact of policies and practices, or the likely impact of proposed policies and practices, on equality for disabled people (referred to in reg 2(3)(b) of the Disability Discrimination (Public Authorities) (Statutory Duties Regulations 2005). This is the process which enables a public authority to identify and act on the need to modify policies and practices to have due regard to the need to promote disability equality.

DIA – diversity impact assessment: Jobcentre Plus' name for an EIA. These are broken into two stages: an 'initial screening' to determine whether or not a more comprehensive or 'full' DIA is required, and a full DIA.

DRC – Disability Rights Commission

The duties – collectively the Race Equality Duty, the Disability Equality Duty and the Gender Equality Duty (see Appendix B)

DWP or the Department – the Department for Work and Pensions

EIA – equality impact assessment: a collective term for race equality impact assessment, gender equality impact assessment and disability equality impact assessment

EOC – Equal Opportunities Commission

ESA – Employment and Support Allowance. ESA is to replace incapacity benefit and income support paid on incapacity grounds and is designed to help people with an illness or disability to move into work.

GED – the Gender Equality Duty (see Appendix B)

General duty – includes the general Race Equality Duty under section 71(1) of the Race Relations Act 1976, the general Disability Equality Duty under section 49A of the Disability Discrimination Act 1995 and the general Gender Equality Duty under section 76A of the Sex Discrimination Act 1975 (see Appendix B for complete list of these duties)

IB – incapacity benefit

Initial screening – the first stage of Jobcentre Plus' two-stage DIA process, used to determine whether or not a full DIA is necessary. Initial screenings are ordinarily used by public authorities to determine whether or not a policy is relevant to race, gender or disability equality. Jobcentre Plus' initial screenings go further than determining a policy's relevance and also attempt to consider a policy's impact on equality, but they do not tend to go far enough to be considered completely effective EIAs.

IS – income support

JSA – jobseeker's allowance

Legacy Commission – the Commission for Racial Equality, the Equal Opportunities Commission and/or the Disability Rights Commission

LEP – Local Employment Partnerships. LEP are partnership agreements between Jobcentre Plus and employers to provide 250,000 employment opportunities to the people most disadvantaged in the labour market by the end of 2010.

ODN – Operational Delivery Network

Pathways – Pathways to work. Pathways to work was rolled out nationally in 2008 and aims to provide a single gateway to financial employment and health support for people claiming incapacity benefits.

RED – the Race Equality Duty (see Appendix B)

REIA – a race equality impact assessment: an assessment of the likely impact of a proposed policy on the promotion of race equality referred to under article 2(2)(b)(i) of the Race Relations Act 1976 (Statutory Duties) Order 2001. The requirement to have arrangements for carrying out an REIA is one of the specific duties introduced to help public authorities meet the RED under s71(1) of the RRA.

RIA – race impact assessment: Jobcentre Plus' name for an assessment of the likely impact of a proposed policy on the promotion of race equality, which are usually referred to as race equality impact assessments (REIAs). These consisted of a two-stage process: initial screening and a full RIA. Jobcentre Plus replaced RIAs with Diversity Impact Assessments (DIAs) in January 2007.

RRA – the Race Relations Act 1976

SDA – the Sex Discrimination Act 1975

Specific duty – includes the duties set out under the Race Relations Act 1976 (Statutory Duties) Order 2001; the Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006; or the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (see Appendix B for complete list of these duties)

WWEQ – Welfare, Work and Equality Directorate, Department for Work and Pensions

Executive summary



This report contains the Equality and Human Rights Commission's (the Commission's) findings and recommendations in relation to the extent to which the Department for Work and Pensions (DWP), through Jobcentre Plus, is meeting the public sector equality duties (the duties) in the development and implementation of its policies and practices.

This is the first formal assessment undertaken by the Commission under s31 of the Equality Act 2006. Jobcentre Plus was chosen in response to what appeared to be well founded complaints made by Jobcentre Plus staff in 2006 and trade union representatives in 2007 that in two specific instances policy changes had a disproportionately adverse effect on some staff and customers, and that Jobcentre Plus had not adequately assessed and monitored the impact of some of these changes on race equality.

As meeting the duties is an ongoing responsibility, in order to gauge progress, the Commission has looked at four key policy areas and associated equality impact assessments (EIAs) developed and implemented between 2003 and 2008. It also considered the overall systems and processes for meeting the duties, which the DWP and Jobcentre Plus have developed and endeavoured to improve over this period. The Commission has aimed to use its assessment power innovatively and constructively, in order to achieve maximum effect in terms of the outcomes the duties were designed to achieve. To this end the report highlights good practice as well as identifying areas where the duties have not been met.

The Commission looked at the extent to which the DWP, through Jobcentre Plus, has paid 'due regard' to the need to promote race, disability and gender equality largely by scrutinising a number of EIA and associated practices. Detailed terms of reference for the assessment, as well as the duties themselves, are contained in the Appendices.

Jobcentre Plus and the DWP have engaged positively with the Commission throughout the

assessment and have shown a willingness to improve their compliance with the duties and develop further good practice.

Centralisation of benefit processing

The assessment considered the extent to which Jobcentre Plus promoted race equality in two regions – London and the North West – in implementing the decision to centralise Jobcentre Plus' benefit processing function, which had a major effect on some 25,000 staff. Although the decision to centralise was made in 2003, with race impact assessments (RIAs) produced in 2004 and 2005, implementation took place over a lengthy period and staff continued to be affected into 2008 and residually in 2009.

While there were a number of weaknesses in the RIA documentation for both regions, there was some evidence to suggest that these documents did not fully reflect the extent of steps taken by Jobcentre Plus to meet the Race Equality Duty (RED) (and more recently the Disability Equality Duty (DED) and the Gender Equality Duty (GED)). For example, London maximised the use of benefit processing centres in areas where there were high concentrations of ethnic minority staff and customers and no one was compulsorily moved beyond standard mobility limits. There has not been any compulsory redundancies as a result of the change in London. In the North West the number of BPC sites was increased from nine to 12 in direct response to issues about local geography and the requirements and mobility of staff raised during consultation.

The main weaknesses in the RIA were that:

- The ethnic monitoring data used for the London RIA did not allow Jobcentre Plus to make accurate conclusions about which racial groups would be most affected by the proposed change.
- The results of consultation with staff about the change were not published and the RIAs lacked information about who was consulted, about what, and how the results informed further decision making about implementing the policy.
- A review of the impact in London was slow and lacked appropriate supporting data – it would have been more robust if it focused on more than just whether staff remained employed, as adverse impact can take forms other than redundancy.
- The decision not to carry out a full RIA in the North West region was flawed as it was based on an incorrect finding that there were no gaps in the race equality evidence base relevant to the policy.
- The actual impact of the change in the North West was not monitored following implementation despite the fact that the screening recommended this.

Overall, the way in which the policy was implemented in these regions suggest that Jobcentre Plus/DWP did not on this occasion meet all aspects of the RED. The Commission acknowledges that they have both introduced new and improved arrangements for meeting the RED since this policy was introduced (and the DED and GED following their introduction), which are covered in more detail in later chapters of the report. However, the lack of review or ongoing monitoring of impact on race, gender and disability equality, particularly in the North West remains a concern and shows that further work is required to fully embed the new arrangement at regional level and achieve a standardised approach to the duties across the organisation.

It is encouraging that Jobcentre Plus established a network of Diversity Business Partners in February 2006 to support regional staff to mainstream diversity considerations into their daily business activity.

The reform of services for incapacity benefit customers

Pathways to Work

The Commission considered how well race, disability and gender equality have been promoted in relation to Pathways to Work, which was rolled out nationally in 2008 and aims to provide a single gateway to financial, employment and health support for people claiming incapacity benefits. As provision of Pathways is to be delivered primarily through the private and voluntary sectors, this gave the Commission the opportunity to see how well the DWP is meeting the duties when procuring services.

The DWP and Jobcentre Plus are adequately promoting disability equality and meeting the DED. There are several examples of good practice in this area, particularly in relation to often overlooked elements of the DED. The DWP consulted widely on this policy, which has general support from stakeholders, including disability organisations. The disability equality impact assessment carried out in May 2007 picks up on the key concerns raised during consultation and highlights the importance of ongoing monitoring of impact by impairment type, which is welcomed. It also recognised that the DWP is subject to the duty whether services are delivered directly or through private/voluntary sector providers and the Commission is pleased to see the emphasis given to equality and diversity within DWP's contractual arrangements. There is, however, still room for improvement in relation to data presentation.

While the focus on disability equality is understandable, the DWP could have done more to promote race and gender equality. There is a risk that the DWP has missed opportunities for doing so as adequate race or gender equality impact assessments were not carried out when the policy was being developed. Initial screenings (the first stage of Jobcentre Plus' diversity impact assessment (DIA) process) often conclude that full impact assessment is not necessary because staff and customers will not be adversely affected by the change. However, adverse impact alone should not be the determining factor as this can overlook a number of key elements of the general duties. Some of the comments contained within impact assessments appear to be based on an assumption that equal treatment will automatically lead to equal opportunity, which suggests a lack of understanding of what the duties are designed to achieve. There was an acknowledged lack of data disaggregated by ethnicity at the time the original EIA was carried out, but there are encouraging signs that this is set to improve as Pathways is rolled out further. Importantly, the DWP including Jobcentre Plus is reviewing the structure of EIAs and associated guidance and acknowledges the need for EIAs to consider positive as well as adverse impacts.

Employment and Support Allowance

Employment and support allowance (ESA) is to replace incapacity benefit and income support paid on incapacity grounds and is designed to help people with an illness or disability to move into work.

It is clear that during the development of ESA the DWP were aware of, and made efforts to promote equality and meet their responsibilities under each of the duties, consulting widely and in some cases modifying plans as a result. As with Pathways, efforts have been focused on promoting disability equality, but could have done more to consider issues of race and gender to ensure all the duties were met.

The DWP and Jobcentre Plus have adequately promoted disability equality and met the general DED, particularly in relation to elements of the duty that are frequently overlooked by public authorities. The Commission notes that the availability of robust equality monitoring data, disaggregated by impairment type, is set to improve.

The DWP and Jobcentre Plus have not demonstrated through the various impact assessments that they have adequately promoted race equality and met the RED in relation to ESA. While the lack of ethnicity data at the time the legislation was introduced is a key factor, so is the assumption made in the DWP assessment that because the policy will be applied equally to everyone there will be no direct impact in terms of race – again demonstrating a lack of understanding about what the duties are trying to achieve.

Regard for the GED is more evident, but again the EIAs could be more explicit about consideration of each element of the duties.

The DWP and Jobcentre Plus will be better able to promote equality and meet the duties if they co-ordinate their EIA efforts more effectively. There is evidence of some unnecessary duplication of effort in the assessments carried out over the course of the policy's development and early implementation. Plans to evaluate the effectiveness of ESA appear comprehensive and with minor improvements should enable the DWP to know if they are meeting the duties in relation to ESA in future.

The Commission is not suggesting that the policy is in fact leading to adverse impact on particular groups, but simply that the issues were not always considered in a sufficiently robust manner to enable the DWP including Jobcentre Plus to be sure of this, and to know that they are meeting the full complement of general duty obligations.

Local Employment Partnerships

Local Employment Partnerships (LEP) gave the Commission the opportunity to see how Jobcentre Plus meets the duties when it is working in partnership with others. LEP are partnership agreements between Jobcentre Plus and employers to provide 250,000 employment opportunities to the people most disadvantaged in the labour market by the end of 2010. These include lone parents, disabled people, the long-term unemployed and other disadvantaged groups such as ethnic minorities.

The EIA appropriately highlights the need for Jobcentre Plus to work closely with employers to ensure they provide a supportive working environment including flexible working and reasonable adjustments in order to meet the aims of the LEP programme. However, it could have more explicitly considered how it would meet each element of the duties as some of these appear to have been overlooked, for example the elimination of harassment and discrimination, good relations, or the need to promote positive attitudes toward disabled persons in public life.

Jobcentre Plus' Working with Partners strategy makes specific reference to the duties but it omits key elements. The LEP Agreement itself does not specifically refer to the duties or the need for employers to make reasonable adjustments. It does, however, spell out the need to review application processes and consider flexible working patterns.

The Commission is not suggesting that the duties are transferred to employers through the LEP relationship, but that Jobcentre Plus and the DWP still need to promote equality and meet each aspect of the duties when working in partnership with others. Jobcentre Plus and the DWP have acknowledged this. The extent to which flexible working and reasonable adjustments are promoted will depend heavily on the robustness of individual local agreements.

Just prior to publication of this report, Jobcentre Plus advised that there had been a change in policy so that agreements with employers would now be verbal rather than written. The LEP Agreement will instead be used as a guide for Jobcentre Plus account managers to make verbal agreements with employers. The Commission is unaware of the reasons for the policy change, but is concerned that the move to verbal agreements, which by their nature lack clarity, could lead to inconsistency of approach and make it more difficult to achieve the aims of this policy. Jobcentre Plus has advised that the extent to which flexible working and reasonable adjustments are successfully promoted will depend on the influencing and communication that supports the development of individual agreements conducted by Jobcentre Plus account managers, which will need to be closely monitored.

The evaluation strategy for LEP looks comprehensive and current issues around data disaggregation are set to improve in late 2009. Further EIAs to be carried out by DWP as part of the evaluation of the policy will need to ensure that they add value to the assessments carried out to date as some of these did not add any depth of analysis to the original one. It is encouraging that there are measures in place to investigate the LEP experience through the analysis of personal characteristics of customers including gender, race and disability in more detail.

New services for lone parents

This part focused on implementation of the new services and support for lone parents in the context of recent changes to lone parent benefit entitlements. The new services were tested out in two trailblazer districts before being rolled out nationally. They were a good example of how a large number of changes can follow in very quick succession over a short period, which poses challenges in terms of coherent assessment and marshalling evidence from a wide range of sources.

The new services, and the choice of trailblazer districts, are in themselves evidence that Jobcentre Plus and DWP are taking steps to promote equality of opportunity and meet other elements of the duties and there is no evidence that any particular group is currently being disadvantaged in any way by the new proposals. However, there are some weaknesses in the EIAs carried out by Jobcentre Plus that will need to be improved upon to ensure that this is the case and particularly to avoid missed opportunities for promoting equality and good relations.

While the Jobcentre Plus' DIA contained useful data and analysis based on race, gender and disability, there was some room for improvement, particularly in relation to analysis by impairment type. Jobcentre Plus have confirmed that existing management information arrangements and the formal evaluation specification will allow for this and all other diversity characteristics.

It is important that DIAs do not stop simply on the basis that the question of adverse impact has been considered, or important elements of the duties will be overlooked. Again, some of the statements about the effect of equal treatment are unhelpful and contradict apparent attempts to meet the needs of particular groups. The DIAs would have been improved significantly by including the plans for future equality monitoring of the policy once implemented.

The extent to which the DWP is meeting the general duties in this area will depend heavily on the scope of the formal evaluation which is being commissioned by the DWP into the national roll-out and how it acts on the findings, as evaluation of the trailblazer pilots only covered equality impacts in a very limited way.

The Commission acknowledges that it will not always be necessary for Jobcentre Plus to undertake formal consultation to identify the needs of particular groups where these are known through some other means, for example, through previous DWP consultation on relevant policies. However, transparency is very important in such circumstances. When carrying out its own DIAs, Jobcentre Plus need to demonstrate greater transparency about concerns raised by stakeholders and people affected by the proposed policies, particularly where it seeks to rely on consultation carried out by other parts of the DWP.

Policies, systems and procedures for meeting the duties

Finally, the assessment looked at the arrangements that Jobcentre Plus has in place to meet the duties, particularly in relation to EIA; monitoring, gathering and using information on the effect of policies; consultation; governance and training.

Both the DWP and Jobcentre Plus have developed and revised guidance and tools for meeting the duties over time, as and when each of these came into effect. Business units within the DWP such as Jobcentre Plus are given scope to produce their own additional EIA guidance to support local business needs.

For the most part Jobcentre Plus' systems are well developed and have the potential to be highly effective in meeting the duties, particularly the Diversity Challenge framework (DC) – Jobcentre Plus' own framework and guidance for meeting the duties in relation to service delivery, introduced in May 2007. Jobcentre Plus' DIA toolkit also contains some good practice. However, the arrangements do not fully capture the distinct differences in the requirements of each of the duties. This is particularly evident in the DIAs that appear to focus mainly on identifying adverse impact as opposed to also, for example, looking out for missed opportunities to promote equality of opportunity, good relations between groups, positive attitudes towards disabled people, participation by disabled people in public life and taking steps to take account of disabled person's disabilities, even when this involves treating disabled people more favourably than other persons.

Jobcentre Plus' initial screenings, the first stage in a two-step DIA process, are more than simply an exercise in determining a policy's relevance to race, disability and/or gender and do consider impact, but they do not tend to go far enough to be considered completely effective EIAs. On the other hand, Jobcentre Plus' full DIA process is hardly ever used. It is the Commission's view that effective EIAs ought simply to be carried out on all policies that are relevant to race, disability and/or gender equality. Screening is therefore only necessary if there is any doubt as to a policy's relevance. The Commission is about to publish new guidance on EIA, which moves away from any notion of screening for impact. As such, Jobcentre Plus needs to adopt a wider concept of assessing impact to more effectively promote race, disability and gender equality and meet the duties as they currently stand but also to prepare for the likely introduction of an equality duty in the near future. The Commission's new guidance will assist in this regard.

There is also an acknowledged need for better integration between the DWP and Jobcentre Plus' EIA/DIA processes to achieve a more joined up approach and reduce duplication of effort.

In relation to consultation and involvement, Jobcentre Plus' DIA toolkit appropriately highlights that these are key stages in any DIA that should always be planned into a proposed change including the need to publish results in summary form. However, staff are only directed to carry out consultation if a full DIA is carried out. As these are rarely carried out, this has meant that consultation on equality issues can appear to be quite limited. Given that the Commission has concluded that a number of the initial screenings appear to have halted the DIA process prematurely, the lack of consultation during DIA or, at the very least, lack of explicit consideration of the results of previous DWP consultations, is a valid concern and one that needs to be addressed.

Jobcentre Plus has developed its arrangements for engaging with stakeholders and customers including a national 'working with partners' framework, a network of regional and district external relations managers, a National Customer Representative Group Forum and customer satisfaction surveys, which are very welcome.

Jobcentre Plus are in the process of carrying out a major review of their equality evidence base and systems with the aim of utilising these more effectively. This is welcomed as it clearly already collects a large volume of monitoring data and the review will assist it with achieving evidence based policy making and effectively promoting equality. There are high level governance arrangements in place, which could be further strengthened by links to more detailed and verifiable evidence providing assurance of compliance with the duties. Staff are clearly being trained on carrying out DIAs but Jobcentre Plus is commissioning a formal evaluation to assess current support arrangements.

Conclusions

The assessment was quite complex as Jobcentre Plus and the DWP have developed and improved their systems and equality outcomes over time and continue to do so. Nevertheless the assessment provides useful lessons not only for the DWP and Jobcentre Plus but also for other public authorities, particularly executive agencies within central government, having to comply with the duties. The Commission's new EIA guidance will assist with this process.

Overall the department has demonstrated that it is taking into account many elements of the general duties. However, there are some areas where systems designed to meet the duties are inadequate, including the limited focus of DIAs, the focus on initial screenings that sometimes lack transparency in relation to consultation, and some misconceptions about equal treatment automatically leading to equal opportunity or equal outcomes, which contradict apparent attempts to meet the needs of particular groups. The DWP and Jobcentre Plus also need to take a more strategic and joined up approach to EIA in order to avoid duplication of effort and to ensure that equality considerations are factored in at the policy development stage.

The DWP and Jobcentre Plus is not fully complying with all of the general duties. However, there is already evidence that they are addressing or will address the Commission's concerns. The Commission has made a number of recommendations to enable this to continue.

Recommendations

Jobcentre Plus should:

- Ensure that its governance requirements include more specific and verifiable evidence in relation to meeting the duties. Where possible assurances should focus on outcomes rather than just outputs.
- Ensure that its training for staff on DIAs addresses the recommendations and observations in this report.
- Ensure staff carrying out DIAs understand that meeting the duties will sometimes require DWP/Jobcentre Plus to go beyond mere equal treatment, for example, by taking into account the needs of particular groups or individuals and considering lawful positive action measures to further equality outcomes.
- Ensure that it responds to the findings of the major review of its equality evidence base.
- Ensure that DIAs are reviewed when they say they will be.
- Ensure there is consistency between Schemes, DC and DIA toolkit.
- Introduce a DC framework for employment functions.
- Revise its DC to include references to the duties Codes of Practice and other Commission guidance.
- Revise the DIA toolkit and guidance to ensure:
 - Clearer definitions of the full range of general duties.
 - Greater clarity of responsibilities of staff at all levels particularly those carrying out DIAs, consultation and involvement, monitoring/gathering and using data.
- A more seamless integration between DIA work carried out by DWP and Jobcentre Plus at all levels, so that work done at each level (be it at national, regional or district) adds value to the work already completed and avoids duplication of effort and paperwork.
- Jobcentre Plus builds on DWP DIAs where possible rather than produce brand new documentation unless Jobcentre Plus has developed or initiated the policy itself. For example, it may be more effective for Jobcentre Plus to provide operational input into DIAs that are carried out by DWP during the policy development stage and continue to do so throughout the life of the policy rather than for Jobcentre Plus to commence its own, stand-alone DIA when it comes to Jobcentre Plus having to implement the policy at a later date.
- The screening process is less cumbersome and simply focuses on ‘relevance’ to each element of the general duties as the basis for determining whether a DIA is required. DIAs that focus on impact and whether a policy demonstrates that DWP is meeting all aspects of the duties will then become more routine.
- Where the DWP has screened a policy as relevant to race, disability and/or gender equality, Jobcentre Plus will not need to screen it again when it comes to implementation. Jobcentre Plus may still need to screen policies that they themselves have initiated, where relevance is uncertain, and carry out DIAs on those that are relevant.
- Jobcentre Plus’ DIAs include consultation and involvement with groups likely to be affected by the policy being assessed, unless Jobcentre Plus can demonstrate that it is aware of the views of such people through some other means, such as relevant consultation or involvement carried out by other parts of the department, and deal with these in a transparent manner.

- That its DIA template is aligned as much as possible with the DWP's template for greater consistency.
- The checklist covers more than just positive and negative impact.
- It is clear that it applies to proposed as well as existing policies.
- There is better integration with the DC.
- DIAs include timetabled action plans with clear lines of responsibility that include such things as:
 - > Any further monitoring/data gathering/consultation and involvement that may be required in relation to particular issues, who is responsible for this and how the results of these actions will be fed into the policy development/ implementation process.
 - > Whether any modifications ought to be made to a policy such as specific requirements added to third party contracts or partnership agreements.
 - > When the DIA and action plan is to be reviewed.

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Background



In January 2008 the Commission decided to carry out an assessment of the extent to which the DWP, through Jobcentre Plus, is meeting the public sector equality duties (the duties) in the development and implementation of its policies and practices. This stemmed from concerns raised by staff in 2006 and the Public and Commercial Services Union (PCS) in 2007 that in two specific instances policy changes may have had a disproportionately adverse affect on some staff and customers, and that Jobcentre Plus had not adequately assessed and monitored the impact of some of these changes on race equality.

Jobcentre Plus is the largest executive agency within the DWP with over 75,000 employees delivering services to around five million people and a potential 1.23 million employers in Great Britain. It plays a major role in supporting the DWP's aim to 'promote opportunity and independence for all'. Its own core objective is 'Work for those who can; support for those who cannot'.

The Commission has a wider interest in understanding the role of departmental executive agencies in meeting the duties, given their substantial role in delivering public services and as an employer in their own right. Jobcentre Plus is subject to the duties as it is part of the DWP, which has overall legal responsibility for promoting equality and meeting the duties as a public authority and central government department. The assessment has given the Commission the opportunity to consider how integrated Jobcentre Plus' practices are with the DWP as a whole, and the effect that this might be having on the Department's ability to adequately promote equality and meet the duties.

The terms of reference¹ focus on the development and implementation of four key policy areas in the context of Jobcentre Plus' and DWP's overarching systems for meeting the duties. The policy areas are:

- centralisation of benefit processing
- the reform of services for incapacity benefit customers, including the introduction of Pathways to Work and the Employment and Support Allowance
- Local Employment Partnerships, and
- new services for lone parents.

The assessment covers England, Wales and Scotland.² This report contains the Commission's findings and recommendations. It also highlights areas of good practice developed by DWP and Jobcentre Plus in the promotion of equality and meeting the duties.

Jobcentre Plus and the DWP have engaged positively with the Commission throughout the assessment and have shown a willingness to improve their compliance with the duties and develop further good practice.

Meeting the general duties

In practice, this generally means prioritising those actions that enable a public authority to tackle the most significant issues in race, disability and gender equality within its remit and taking actions which are likely to deliver the best equality outcomes.

When assessing the extent to which a public authority has met the general duties when carrying out its functions or policies/practices the Commission looks at the extent to which public authorities have paid 'due regard' – this means that the actions taken to promote race, disability and gender equality are proportionate to a policy's relevance to race, disability and gender equality.

An authority should ask whether its policies could affect different groups in different ways and try to implement them in ways that promote equality – usually this will be achieved by carrying out robust equality impact assessments (EIAs) on all relevant policies, acting on the findings and monitoring the policy's operation. To be effective, EIAs need to be based on evidence (quantitative and qualitative) and address all the elements of the general duties to the extent that they are relevant to the policy, practice or function concerned. Where public authorities do not have sufficient information to hand, the Commission will look at what steps the authority is going to take to improve their equality evidence base.

The Commission will look for evidence that public authorities have considered not just whether any particular policy may have an adverse or disproportionate impact, but critically whether the authority has considered what more they can be doing to promote race, disability or gender equality in order to deliver better equality outcomes.

Public authorities need to be mindful that meeting all of the general duties will require more than simply identifying potential adverse impacts and addressing them. They need to go beyond this and ensure that their policies or services meet the actual needs of users (for example, meet the different needs of different ethnic groups, men, women and disabled people). Achieving this will sometimes require an authority to do more than simply treat everyone exactly the same. The Disability Equality Duty (DED) takes this concept even further, by explicitly requiring authorities to have due regard for the need to take steps to take account of disabled person's disabilities, even where that involves treating disabled persons more favourably than other persons.

The Commission is about to publish new guidance on meeting all three duties in a holistic way. This will replace the individual guidance issued by the legacy Commissions³ and will be available on the Commission's website. It will include EIA guidance and the Commission's EIA audit tool, which public authorities should find useful in understanding what the Commission looks for in effective EIAs.

Why the Commission decided to carry out the assessment

The Commission for Racial Equality received two complaints alleging that Jobcentre Plus had failed to properly assess the impact of two proposed policies on race equality required by the Race Equality Duty (RED).

The first complaint from staff alleged that the policy decision not to continue with the Specialist Employment Adviser initiative⁴ had an adverse impact on staff and customers from particular racial groups and that Jobcentre Plus failed to carry out a race equality impact assessment (REIA).

The second complaint from the London Branch of PCS in August 2007 alleged that a decision to make all Jobcentre-based London Band A (Administrative Assistant) benefit processing staff 'surplus' disproportionately affected a large number of staff in a negative way, the majority of whom were from ethnic minorities, women (particularly Asian women) and many of whom were disabled and/or approaching retirement age. It was alleged that Jobcentre Plus had failed to carry out an EIA in relation to this change. Jobcentre Plus had carried out an initial screening but had concluded that a full DIA was not necessary as the proposals were not considered to have any potential to impact adversely on a particular racial group or groups.

In October 2007 Jobcentre Plus acknowledged on behalf of the DWP that an REIA had not been carried out in relation to the Specialist Employment Adviser (SEA) initiative. They offered reassurance that since that time a number of initiatives had been introduced to ensure that DWP and Jobcentre Plus staff are fully aware of their legal responsibilities. Jobcentre Plus commissioned an independent evaluation of the SEA programme. Whilst this evaluation recognised the potential positive impact of the initiative it was unable to identify clear, quantifiable benefits.

In relation to the second complaint, as the changes had already been made the Commission asked Jobcentre Plus to demonstrate that the ongoing impact of this decision was being monitored and any adverse impact addressed where appropriate. By October 2007, of the 386 staff declared surplus, 173 had been redeployed.

The Commission acknowledges that the DWP's Redeployment Programme guidance clearly requires its Regions to monitor the diversity of people who are made surplus, those who are redeployed or leave the organisation. We also understand that Jobcentre Plus have subsequently monitored the position of the remaining affected staff, none of whom have been made redundant other than on a voluntary basis. However, at the time, Jobcentre Plus were unable to provide evidence of appropriate equality monitoring or information about how it was being used to inform the decision making process.⁵

A check of the 11 race impact assessments (RIAs) and DIAs relating to national policy changes or developments published on Jobcentre Plus' website in late 2007 suggested that it had only ever published stage 1 initial screenings⁶ rather than any full RIAs or DIAs. This was a concern, given the obvious relevance of Jobcentre Plus' work to race, but also disability and gender, following the introduction of the DED and Gender Equality Duty (GED).⁷ However, as this report shows, Jobcentre Plus' initial screenings actually go further than considering simple relevance and do consider impact. They nevertheless often fall short of what is expected of a full and effective EIA.

According to the DWP 'responsibility for EIA and compliance with equality legislation is devolved to the individual businesses in the department. This places the responsibility for ensuring that we do not discriminate and do promote equality on individual change owners'.⁸ The lack of full DIA on the part of Jobcentre Plus raised questions about how integrated its practices were with the DWP as a whole and the effect that this might be having on the Department's ability to meet the duties.

Power to conduct an assessment

The Commission has power to assess the extent to which or the manner in which a public authority has complied with one or any of the duties under section 31 of the Equality Act 2006. The Commission aims to use this power to assess public authorities' performance of the duties in an innovative and constructive way, in order to achieve maximum effect in terms of the outcomes they were designed to achieve. While this will involve some consideration of systems and processes required by the specific duties, the main purpose of the assessment is to determine whether the DWP, including Jobcentre Plus, have paid due regard to all elements of the general duties. It is only in paying such regard that a public authority will achieve equality outcomes of relevance to its remit.

This tool not only allows the Commission to identify breaches of the duties and take appropriate action, but also to identify areas of good practice in the promotion of equality and diversity.

Methodology

The assessment involved documentary analysis of materials relating to the development and implementation of the four policy areas as well as the DWP's and Jobcentre Plus' overarching systems and processes for meeting the duties. Most of the information was provided directly by Jobcentre Plus and DWP, who have assisted the Commission by providing additional information and clarification as required.

The Commission also considered representations made by individuals and organisations, including Trade Unions, in relation to the assessment.

Structure of the report

The report begins with a brief overview of the relationship between the DWP and Jobcentre Plus in terms of responsibility for meeting the duties at the various stages of policy development and implementation.

It then considers the manner and extent to which the duties have been or are being met in the development and implementation of the four policy areas under scrutiny. The Commission acknowledges that some of these policies are older than others. For example, the decision to centralise benefit processing was taken in 2003 and the process completed in March 2008. RIAs carried out in the North West and London regions were published in August 2004 and May 2005 respectively.

It then considers Jobcentre Plus' systemic approach to meeting the duties in the context of DWP's wider approach drawing on examples from the four policy areas. This includes an analysis of Jobcentre Plus' arrangements for carrying out DIAs and ongoing monitoring, gathering and using data, contained in Jobcentre Plus' current Race, Gender and Disability Equality Schemes. There is also an analysis of Jobcentre Plus' internal framework for meeting the duties known as the 'Diversity Challenge' (DC) and its DIA tools.

Examples of existing good practice developed by Jobcentre Plus and the DWP are highlighted throughout the report. It concludes with a number of recommendations.

Relationship between Jobcentre Plus and the DWP

The DWP sets the overall framework for delivering diversity and equality across the Department and its business units, including Jobcentre Plus. In simple terms, major policies are designed and developed in DWP's Work, Welfare and Equality Directorate (WWEG) and Jobcentre Plus is charged with implementing them. The equality impacts of major policy initiatives will be explored firstly by WWEG, with subsequent Jobcentre Plus considerations focused specifically on impacts linked to operational design and delivery.

Jobcentre plus described this process on behalf of the wider Department in the following key stages:

- DWP policy formulation
- DWP policy proposal/decision
- Jobcentre Plus change design/change implementation
- Jobcentre Plus delivery and performance management
- Jobcentre Plus performance review and evaluation
- DWP research and evaluation.

Jobcentre Plus indicated that this is not a completely one-way or linear process, with information from various stages feeding into others to varying degrees. Policy can be fast moving, with a wide range of changes being introduced concurrently. Changes or new policies are sometimes trialled in a particular location before being rolled out nationally.

In recent years, Jobcentre Plus and DWP have worked to build systematic consideration of the equality impact of changes into their processes. Green papers include consultation with customers and external stakeholders and are accompanied by an EIA. At Jobcentre Plus level, programme managers are required to complete DIAs and to consider appropriate consultation with internal and external stakeholders before providing approval for a project to proceed towards implementation. The extent to which this is achieved in practice is considered in detail in subsequent chapters. However, in reading this report it is important to note that the DWP and Jobcentre Plus have amended and generally improved their EIA processes over time and that not all of these processes were in place when some of the policies covered by this assessment were developed or implemented.

2

Centralisation of benefit processing



In March 2008, Jobcentre Plus completed the process of centralising benefit processing from hundreds of relatively small offices into around 77 larger benefit processing centres (BPCs) across Great Britain. Jobcentre Plus advised that the decision to centralise was taken in 2003 with initial policy discussions originating in the former Benefits Agency.

Following adoption of this policy Jobcentre Plus carried out a national race impact assessment (RIA) covering development and implementation. It is unclear whether the RIA identified any potential adverse impact as Jobcentre Plus has been unable to locate a copy from its archives.

The Commission decided to focus on this policy as it had a major effect on some 25,000 staff. Implementation took place over a lengthy period and some staff continue to be affected.⁹

The Commission has therefore focused on RIA and monitoring in relation to implementation in two English regions: London and the North West. London was chosen given the concerns raised by the original Public and Commercial Services Union (PCS) complaint in 2007 and Jobcentre Plus suggested the North West. RIAs were published for these regions in May 2005 and August 2004 respectively.

Overview of the centralisation of the benefit processing function

The establishment of BPCs was one of a number of changes designed to improve the delivery of Jobcentre Plus services to customers and meet wider government efficiency savings. It aimed to reduce performance variation; achieve increased consistency and derive economies of scale in support areas by decreasing the number of support positions required.

The policy involved transferring all benefit processing to dedicated BPCs.¹⁰ It aimed to enable greater specialisation and functionalism for staff. By creating larger centres the intention was to make it easier to implement new

processes and disseminate best practice. BPCs were also intended to help with training and establish clearer career paths which should lead to lower absence rates and increased staff retention.

According to the London RIA, implementing the policy in London meant maximising the use of existing BPCs (in Glasgow, Macclesfield and Belfast, which already dealt with London customers) and establishing four new centres in London (Balham, Hackney, Ilford and Stratford – all areas with high concentrations of ethnic minority staff and customers) for those districts not linked to one of the existing centres. There was no intention to declare any benefit processing staff redundant as a result of the change. Existing staff were to be offered a guaranteed place within one of the four new centres. Where staff were unable to move, it was anticipated that suitable alternative employment in Jobcentre Plus, or elsewhere in the DWP or the wider Civil Service would be found. Benefit processing is regarded as ‘backroom’ work with contact from customers via telephone, letter or through a network of local job centres. Customers were to benefit from access to a more personalised service, reduced duplication of effort, and an increase in the speed and accuracy of benefit payments. Facilities for people to personally call into offices where there was access to Language Line and multilingual leaflets were retained.¹¹

According to the North West region RIA, processing work carried out in over 50 sites was to be migrated into 13 BPCs. The RIA identified similar benefits to customers and staff as the London RIA.

Analysis of the extent to which the duties have been considered in the policy development and implementation process

Both regions identified customers as the primary beneficiaries and emphasised that staff would not be adversely affected.

The London region

A full RIA was carried out regarding implementation of the policy in the London region in May 2005, which concluded that there would be no adverse or differential impact on any particular racial group for customers or staff. In relation to staff, the RIA document based this assessment on the fact that redundancies would be avoided by redeploying staff within Jobcentre Plus or the wider Department or Civil Service. Their RIA would have been more robust if went beyond considerations of whether staff remained employed as adverse impact on staff can take many other forms.

The RIA document contains sections on all the key considerations including consultation, potential differential/adverse impact, alternatives/mitigation, ongoing monitoring and publication.

Evidence considered included data relating to a range of racial groups. The RIA could have been more useful by explaining why the various reports referred to were relevant or how they informed decisions about implementing the change as statements about these were very general.

A wide range of stakeholders, including the PCS Union, were consulted in the London region about wider changes in London.¹² However, it was unclear from the RIA exactly what issues stakeholders were consulted about and what actions were taken to incorporate feedback in the decision making process.

The results of consultation specific to centralisation of benefit processing do not appear to have been published. Discussions between Jobcentre Plus London and trade unions, aimed at ensuring staff views were heard and represented, were said to be ongoing with consultation about local implications of establishing BPCs to take place in the context of District Service Delivery Planning.

Jobcentre Plus advised that consultation with PCS in London was an ongoing and iterative process. It included face to face dialogues and correspondence at pan-London and district level, which informed district planning. There is evidence that benefit processing staff participated in a preference exercise, which gave them the opportunity to raise any issues that would prevent them from moving.

According to the London RIA it was to be reviewed on a regular basis but this was not done until December 2007, two-and-a-half years later, at a time when it had begun to consult with trade unions on the need to move to a voluntary early release scheme (VER) and other redundancy avoidance measures. The report of the review indicates that the original findings on potential impact were accurate and that there is no evidence that particular ethnic groups have been adversely affected in transfers from one location to another. However, the equality data contained in the review did not assist in determining the equality impact of those affected by centralisation, particularly staff who were at that time still at risk of redundancy.

The report goes on to state that ‘An important and key underpinning position has been that throughout the two years since the inception of the four London Benefit Processing Centres, we have been able to offer continuing vacancy opportunities for staff wishing to move laterally and/or on progression (Band A–B and B–C in the main)’.

While this is an example of Jobcentre Plus attempting to mitigate potential adverse impact the review would have been more robust if it was supported by more appropriate data and went beyond considerations of whether staff remained employed as adverse impact on staff can take many other forms. For example, PCS submitted that many staff had to move offices and increase their journey to work. Some left the department via voluntary exit schemes while others had to reduce their working hours to enable them to maintain caring responsibilities when transferring to a new office. According to the PCS, the reduction in the number of jobs available for staff in London combined with the high number of ethnic minority staff in London, meant that there was a disproportionate impact on ethnic minority staff in London which should have emerged in the RIA.

Jobcentre Plus emphasised that none of the affected processing was moved out of London and most staff moved with the work. The creation of these new centres led to some rationalisation and an approximate reduction of 500 staff (2000 to 1500). However, this was largely offset by the concurrent roll-out of the Jobcentre Plus model including new functions such as the Financial Assessor role.

Jobcentre Plus emphasise that the RIA documentation does not adequately capture the extent to which adverse impact, including that beyond redundancy, was actually considered and addressed in London. For instance, it submitted that no one was compulsorily moved beyond standard mobility limits (modified for part-time employees). Excess fares were paid where additional costs were incurred as a result of redeployment. Staff were also given the opportunity to 'practise' the new journey.

Jobcentre Plus also advised that the documentation does not reflect the actual equality monitoring that took place. It asserts that detailed diversity data was gathered about individual staff under threat of redundancy to support Cabinet Office procedures. However, there is no information about how such data was used to inform further decisions about implementing the policy in London in a manner that ensured the groups most affected were appropriately supported.

Jobcentre Plus accept that the review could have been improved. However given the overall timescale for roll-out, they do not think the timing of the review in 2007 was unreasonable. Jobcentre Plus have advised that benefit centralisation was complete by March 2008 and that the surplus situation is now very nearly resolved, with only two staff finalising their redeployment posts from a starting point of over 300.

There is some evidence to suggest that the RIA documentation does not fully reflect the extent to which Jobcentre Plus took steps to meet the Race Equality Duty (RED), and more recently the Disability Equality Duty (DED) and Gender Equality Duty (GED), in relation to staff. This may have contributed to some of the disagreements between Jobcentre Plus and PCS in relation to the effect of the policy on staff and how to address any adverse impact on equality of opportunity and good race relations.

In relation to customers, the London review report stated that all London customers have received an improved service. The report would benefit from more evidence of this and an explanation of why this is the case as the data which is said to support this is impenetrable. Jobcentre Plus have confirmed that average processing times for each of the benefit types have decreased following centralisation and acknowledge that this could have been made clearer.

The North West region

The North West region carried out an 'initial screening' but no full RIA. The screening document stated that because there were no gaps in the data sourced for the screening, there was no need to conduct a full RIA at that stage. This was to be reviewed once the impact of the proposals on both staff and customers became clearer and more details about changes were known. However, no formal review took place. Limited RIAs were carried out at district level.

The conclusion that there were no gaps in the data was flawed. Data considered did not differentiate beyond whether staff were either 'white' or from an ethnic minority. This was a significant failing as it meant that Jobcentre Plus had no way of knowing the potential impact on particular racial groups in that region. To say that a proposed change is not likely to have any adverse impact on any racial group when there are significant gaps in the evidence base makes such assessments misleading. Jobcentre Plus accept this. It has advised that comprehensive ethnicity data on staff was not available at the time but that it now captures data on a wide range of staff diversity characteristics.

The screening refers to early consultation with district managers to identify potential BPC sites, however it is unclear from the document what their views were on the proposals or what bearing their views had on outcomes. Jobcentre Plus advised that meetings were held with each District Manager and this included detailed discussions on each of the proposed sites and took full accountability of the travel to work areas, alternative jobs within each site, or at neighbouring sites, working patterns of people potentially impacted by the centralisation and identifying alternative delivery options.

Jobcentre Plus have provided other evidence that consultation with staff and regional trade union representatives took place throughout implementation of the policy in the region.

This included holding one to one interviews and developing bespoke solutions to mobility and caring needs. The increase in the number of BPC sites from nine to 12 was in direct response to issues about local geography and the requirements and mobility of staff raised during this consultation. This should have been reflected in the RIA documentation to make the process more transparent.

The RIA emphasised the need to monitor the impact of the change on different racial groups during and post implementation but critically there is no evidence that this occurred in the North West. This was a significant failing, which is accepted by Jobcentre Plus. It emphasises that significant improvements have been made to Jobcentre Plus and DWP systems and guidance since this RIA was carried out including the requirement to consider and monitor the impact of change upon diverse customer and staff groups. HR and Diversity Business Partners also provide support on compliance with equality legislation.

General comments

The North West and London regional assessments were completed in August 2004 and May 2005 respectively. The London region explained the differing timelines based on different local circumstances in each region. That is, London faced particular issues around the acquisition of buildings and undertook a considerable amount of consultation activity with various stakeholders prior to publishing its assessment due to particular political sensitivities.

Conclusions

There were some shortcomings in the way centralisation of benefit processing was implemented that suggest that Jobcentre Plus/DWP did not on this occasion meet all aspects of the RED.

Jobcentre Plus has mitigated some of the potential adverse impact on race equality of this policy in London by taking steps to avoid compulsory redundancies and locating the new BPCs in districts with large ethnic minority populations. In the North West the number of BPC sites was increased from nine to 12 in direct response to issues raised during consultation.

However the RIAs themselves did not reflect an adequate assessment of differential or adverse impact on staff as they limited this to considering impact in terms of whether staff remained employed. Given this, the formal review of impact in London was slow and was also silent on any adverse impact on staff falling short of compulsory redundancy. This not only highlighted a lack of understanding by staff carrying out these assessments of the meaning of adverse impact, but also failed to do justice to the positive steps that were actually taken by the organisation to mitigate against potential adverse impact.

The process applied in the North West gives very little confidence that the RED has been met there given the flawed basis for the decision not to carry out a full RIA and lack of any review or follow up equality monitoring during and post implementation.

Like London, the North West RIA documentation does not fully capture what Jobcentre Plus did in practice to identify what impact these changes would have on different groups of staff and what steps needed to be taken to mitigate against any adverse impact. The effectiveness of the RIA process in ensuring that Jobcentre Plus met the general RED was therefore very limited.

As this was a large scale change of great significance to benefit processing staff (and potentially customers) it was highly relevant to race equality and full RIAs ought to have been carried out. This would have ensured that the gaps in the evidence base could be filled to better inform delivery and that robust measures for ongoing monitoring or review could be developed.

This suggests that Jobcentre Plus had inadequate arrangements for assessing and monitoring the impact of changes on race equality required by the specific RED and important steps in meeting the general RED. While we are mindful that centralisation was initiated some time ago and that Jobcentre Plus and the DWP have since introduced new arrangements for meeting the RED (and GED and DED) (covered in detail in later chapters), the Commission is still concerned by the lack of review or ongoing monitoring of impact on race, gender and disability equality, particularly in the North West. It suggests that further work is required to ensure that the new arrangements are fully embedded at regional level to achieve a standardised approach to the duties across all levels of the organisation.

It is encouraging to see that since the North West RIA activity was carried out Jobcentre Plus has established a network of Diversity Business Partners to support regional staff to mainstream diversity considerations into their daily business activity. This includes training and guidance on the completion of DIAs.

3

Reform of services for incapacity benefit customers



The reform of services for incapacity benefit customers, particularly Pathways to Work (Pathways) but also Employment and Support Allowance (ESA), provides an opportunity to see how the DWP meets the duties in procuring services from the private/voluntary sector through contracting arrangements.

Overview of the individual policies

The proposals for Pathways and ESA were outlined in *A new deal for welfare: Empowering people to work*, published by the DWP in January 2006, with full implementation of both policies from 2008. The proposals for Pathways were in relation to a national roll-out of the policy, following successful pilots which had begun in 2003.

Pathways provides a single gateway to financial, employment and health support for people claiming incapacity benefits, with the roll-out of the provision being delivered primarily through the private and voluntary sectors. The process includes: a personal capability assessment; mandatory work-focused interviews, and programmes to support the customer in preparing for work.

Following on from the consultation *In work, better off: Next steps to full employment* proposals were contained in the green paper *Ready for work: Full employment in our generation* (December 2007) to extend Pathways on a mandatory basis for existing incapacity benefit customers aged under 25, starting from 2009.

Pathways provided the foundation for the introduction of ESA, which for new customers replaces the payment of incapacity benefit and income support paid on incapacity grounds and is designed to help people with an illness or disability to move into work. Applicants enter a 13-week assessment phase, which includes a work capability assessment as a result of which customers are either placed in a work-related activity group or support group.

Customers placed within the support group are not required to attend further work-focused interviews as a condition of receiving ESA, but those placed in the work-related activity group are expected to prepare for a return to work as a condition of receiving ESA.

These proposals are obviously highly and directly relevant to disability equality as the vast majority of people in receipt of incapacity benefit would also fall under the definition of disability in the Disability Discrimination Act 1995 (DDA). They are also relevant to race and gender equality.

Analysis of the extent to which the duties have been considered in the policy development and implementation process

Pathways to Work

Policy development stages – overview of issues raised and documents considered –

This policy initiative was trialled from 2003 via a series of pilots but the main focus of this assessment has been on the proposals for a national roll-out of Pathways which were contained within the green paper *A new deal for welfare: Empowering people to work* (2006) and subsequent proposals to extend its coverage.

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The DWP did not publish an equality impact assessment (EIA) on the green paper *A new deal for welfare: Empowering people to work*, but it is clear from the subsequent consultation report that the proposals for a national roll-out were broadly welcomed by various disability organisations including the Disability Rights Commission (DRC). The early evidence from the pilots was also positive so it is perhaps unsurprising that there was general support for the policy.

Some concerns were raised during consultation including: ensuring the personal capability assessment was effective in terms of assessing mental health impairment, those with fluctuating conditions and learning disabilities and that the overall package should respond to the needs of those with mental health conditions and those with learning disabilities.

Since the majority of the Pathways roll-out was to be delivered by private sector providers, concerns were also expressed during consultation in relation to the impact of outcome-based funding for contractors and whether this would exclude smaller voluntary organisations. The DWP have incorporated a number of steps into their commissioning arrangements designed to ensure that smaller organisations are not excluded.

In May 2007 DWP conducted a full disability equality impact assessment (DEIA) on the Pathways roll-out and incapacity benefits reform, including its proposals for ESA. There is no corresponding EIA in respect of race and gender.

The DEIA recognises that the DWP is under the same obligation for Disability Equality Duty (DED) whether it is delivering the service directly or through private/voluntary sector providers and that it will need to ensure that contractors provide the DWP with sufficient information regarding characteristics of customers and feed into performance and contract management systems.

Following this, subsequent DIAs were done within Jobcentre Plus in relation to the implementation of provider-led Pathways and copies of the standard contracting documentation were also examined.

A further EIA was done by DWP in relation to the extension of Pathways in December 2007. This was contained within the *Ready for Work: Full employment in our generation* Impact Assessment.¹³

General comments – As the DWP did not conduct an EIA that included adequate consideration of race and gender equality there is a risk that the DWP has overlooked opportunities for promoting race and gender equality and meeting the general Race Equality Duty (RED) and Gender Equality Duty (GED). However it is noted that the EIA done in December 2007, in relation to the extension of Pathways to those aged under 25, did include equality impact tests in relation to race, gender and disability.

The DWP and Jobcentre Plus have made more concerted efforts to promote disability equality and meet the DED. It is clear from the DEIA conducted in May 2007 that DWP have made considerable efforts to consult widely on this policy initiative, which has general support from stakeholders. The assessment picks up on the positive evidence on the effectiveness of Pathways as well as the concerns that were raised during the consultation, and notes the mixed evidence from the evaluation regarding whether Pathways had a larger impact on those with a mental health condition than other forms of impairment. It concludes that it will be important to monitor its impact by type of impairment.

However, there is still room for improvement to ensure that the DWP and Jobcentre Plus are meeting the duties comprehensively. It is notable, for example, that none of the information presented in the Pathways to Work Performance Summaries is disaggregated on a gender, ethnicity or impairment basis. However, DWP have agreed to publish tables for Jobcentre Plus Pathways starts and job entries by gender, ethnicity and impairment type (where data is available) in future performance summaries from April 2009.

Only one of the four diversity impact assessments (DIAs) (mostly initial screenings) done at Jobcentre Plus district level makes any attempt to consider data in relation to ethnicity and gender. These assessments have copied from pre-existing documentation, consistently raising the same issues but without going on to say exactly what action is being taken to address them. Some of the assessments include a link (which does not now work due to the length of time that has elapsed since publication) to the latest performance summary information but do not provide any commentary on these performance figures or analysis of the assumptions made based on this information. Jobcentre Plus advise that the Department, including Jobcentre Plus, is reviewing the structure of EIAs/DIAs and associated guidance.

A further common theme is that all of the initial screenings conclude that a full assessment is not required, since on the evidence to hand, neither customers nor staff will be adversely affected by the change. Making the potential for adverse impact the deciding factor in whether to carry out a full impact assessment means that it is unlikely that Jobcentre Plus will be able to identify any missed opportunities for promoting equality of opportunity and good relations between groups, promoting positive attitudes to disabled people, encourage participation by disabled persons in public life and taking steps to take account of disabled person's disabilities, even when that involves treating disabled persons more favourably than other persons.

Overall the DWP appears to place emphasis on matters of equality and diversity within its contractual arrangements to ensure that its suppliers are clear about the standards required of it in its delivery of services.

In particular there are specific references in the Invitation to Tender (ITT) documentation regarding the fact that accreditation checks will be carried out to ensure compliance with equality and diversity policies, including the provision of reasonable adjustments.

Furthermore, the ITT asks some specific questions in relation to how potential suppliers will take account of individual needs and barriers. Suppliers are asked specifically how they will help to achieve the Government's objectives of reducing child poverty and social exclusion. The Commission would, however, have expected to see similar questions asked in relation to the requirements of the duties as these are legal obligations. The Department has agreed to review the generic parts of ITTs to ensure that they capture all elements of the duties.

Whilst there are clear indications that DWP expects certain standards from its suppliers (for example in the DWP code of conduct) some of these statements are highly generic and so it is not entirely clear, just from the documentation, how providers would understand what they were specifically required to do to enable DWP to meet the general duties:

'All providers will have effective equality and diversity policies and will abide by DWP policy on equality and diversity where relevant and proportionate to the contract.

'Top-tier and delivery providers should promote diversity and equality in their ways of working, in relation to their own staff, their supply chain and in the delivery of services.'

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The Commission does not believe that it is necessarily a question of asking providers to do more but simply being clearer about exactly what is required, in respect of this particular contract.

There is a clear emphasis (and some very useful links to DRC guidance) within the contract documentation in relation to the requirements of the Disability Discrimination Act (DDA) and the DED. Whilst this emphasis is understandable and welcome it is important that the DWP do not lose sight of the fact that even though this policy is specifically targeted at disabled people they still need to meet their legal obligations under the race and gender duties.

Race – On the evidence presented the DWP have not adequately demonstrated that they have sufficiently promoted race equality and met the general RED in relation to Pathways, due largely to their failure to conduct any form of EIA covering race when the policy was being developed.

In addition, only one of the DIAs done by Jobcentre Plus includes any consideration of data disaggregated by ethnicity, although it is noted that it also states that they are working with providers that are actively pursuing employment opportunities for Asian language speaking staff and wherever possible female staff.

The contract documentation does provide some indication of the standards that DWP expect to see generally in the delivery of its contracts. This in some way helps to demonstrate how they might meet the duty to pay due regard to the need to eliminate unlawful race discrimination. While there is nothing explicit enough to enable the Commission to be fully assured on this point, we understand that there is work in hand to address this.

The EIA in relation to the extension of Pathways to those under 25 concludes that there is no evidence to suggest there will be any adverse impact in terms of race, but it also highlights that DWP does not have sufficient data in relation to ethnicity (but it indicates that there will be better data available as Pathways is rolled out across the country). It is essential that this data is collected and analysed to ensure that Pathways is operating in the way intended and the DWP has confirmed that this will be done.

Whilst the Commission does not necessarily expect there to be an adverse impact in the operation of this policy, meeting the general duty to promote race equality means going beyond ensuring there is no adverse impact but also identifying where more can be done to promote equality of opportunity and to promote good relations.

Gender – Many of the comments made above also apply in relation to the gender duty. That is, the failure to conduct an adequate gender equality impact assessment and the generic nature of contract requirements mean that the DWP and Jobcentre Plus are unable to demonstrate that they have adequately promoted gender equality and met the general GED.

The EIA done in December 2007 does include some useful data disaggregated by gender although it makes no reference to the general duty in relation to harassment. Again the EIA appears to make the assumption that since the policy applies equally to men and women it will not have a greater impact on one of those groups. This once again misses one of the key points of the duty which requires public bodies to take into account the different needs of men and women and tailor their policies to meet those needs.

Disability – In contrast to the race and gender duties, overall the DWP and Jobcentre Plus have promoted disability equality and met the general DED more effectively.

The DEIA completed in May 2007 demonstrates consideration of the key points raised during the consultation and states that the DWP will continue to involve disabled people in the development process.

The DEIA cites research undertaken by the Institute of Fiscal Studies to demonstrate the positive impact that the programme has had so far and goes on to identify some delivery areas where they will need to continue to monitor to ensure that the policy delivers positive outcomes for all disabled people. There is also some brief consideration of the general duties in respect of promoting positive attitudes towards disabled people and also encouraging participation in public life, which are elements of the DED often overlooked by public authorities generally.

The DEIA points to apparently conflicting evidence surrounding whether Pathways has a larger impact on those who do not have a mental health condition than on those who do. It concludes that it will be important to continue to monitor the impact on people with different impairments. It also points out that the whole point of Pathways is to move away from a medical model of disability. Jobcentre Plus have indicated that four out of the five Pathways impact measures estimated to date for claimants with mental health conditions are positive. It will continue to monitor impacts for claimants with mental health conditions within the provider-led Pathways evaluation.

The DIAs carried out by Jobcentre Plus repeat the need to monitor in relation to different impairment types.

There is still room for improvement. For example, although there are some specific references to the need to make reasonable adjustments within the contract documentation, as with race and gender many of the requirements appear to be highly generic and do not pick out any of the specific issues raised within the impact assessments.

Conclusions – The DWP and Jobcentre Plus have demonstrated that they are promoting disability equality and meeting the DED in relation to Pathways. Whilst the focus on the disability duty is understandable, given the particular relevance of this policy to disability equality, they should also have demonstrated that they have promoted gender and race equality and met the general Race and Gender Equality Duties.

There are several examples of good practice in relation to promoting disability equality, particularly in relation to often overlooked elements of the DED.

Unfortunately, some of the comments contained within the impact assessments are based on an assumption that equal treatment will automatically lead to equal opportunity. This indicates a level of misunderstanding about what the duties are trying to achieve in terms of ensuring public services meet the needs of different groups and contradicts apparent attempts elsewhere to meet such needs.

The assessments that end after initial screening for adverse impact also display a lack of understanding of the full purpose of equality impact assessments as a means to meet the general duties and ensure adequate promotion of race, disability and gender equality.

Employment and Support Allowance (ESA)

Policy development stages – overview of issues raised and documents considered –

The proposals for ESA were initially contained within the green paper *A new deal for welfare: Empowering people to work* (Jan 2006). DWP have confirmed that an EIA was not done at this stage of policy development.

In the consultation report, published in June 2006, the key concerns raised were in relation to whether the assessment used for eligibility for ESA would be effective in terms of assessing mental health impairment, those with fluctuating conditions and learning disabilities; and that ESA would penalise young disabled people due to the differences in the jobseeker's allowance (JSA) regime. There was also strong opposition to the proposal for a two-tier ESA.

The proposals were contained within the **Welfare Reform Act 2007** which was given Royal Assent on 3 May 2007. A DEIA was completed a few days later.

The regulations setting out the entitlement conditions to ESA were laid before Parliament on 27 March 2008 and a further EIA covering all strands was also completed by DWP in March 2008.

Jobcentre Plus published a further DIA (initial screening only) in relation to which sites were selected to deliver ESA in September 2007. As the virtual network of benefit delivery centres was not thought to impact on customers, this EIA focused primarily on the potential impact for Jobcentre Plus staff.

General comments – It is clear that during the development of ESA, DWP were aware of and made efforts to promote equality and meet their responsibilities under each of the duties. It is also clear that they consulted widely, with a range of stakeholders, and in some instances modified their plans as a result of this. However, an EIA was not done initially (although it is

important to note that at the time DWP and Jobcentre Plus were subject just to the race duty).

Overall, DWP's efforts have, once again, been focused on, and as a result are more successful, in meeting the DED rather than the RED and GED. More attention should have been paid, especially during the earlier stages of policy development, to issues of race and gender so that the DWP could ensure itself that it is adequately promoting race and gender equality and meeting not just one but all of their duties. It is not clear why only a DEIA was done in May 2007, rather than an EIA that explicitly covered all three strands.

Overall three impact assessments were conducted during ESA's development and implementation (a DEIA and EIA by DWP, and a DIA initial screening by Jobcentre Plus), but they don't appear to build on each other in any way. While we note the fact that the need to promote equality was considered at each stage, starting from scratch each time in this way suggests an unnecessary duplication of effort. The DWP and Jobcentre Plus will be better able to promote equality and meet their duties if they co-ordinate their EIA efforts more effectively.

The plans in place to evaluate the effectiveness of ESA appear comprehensive but would be improved by being more explicit about what equality monitoring information the DWP and Jobcentre Plus need for them to be able to establish whether they are meeting their general duty obligations. The evaluation should enable them to do this as they have confirmed that the data collected will be disaggregated appropriately by ethnicity, impairment and gender.

Race – The main consideration of race is contained within the EIA carried out in March 2008, when the legislation was already on the statute book. It acknowledges that they did not at the time have statistics broken down by ethnicity – although this should happen with the roll-out of Pathways. It goes on to say that because ESA will be applied equally there will be no direct impact in terms of race – although there is no data or other evidence presented to back this assumption up.

It does, however, acknowledge that ATOS healthcare, the contract holders for provision of medical services, will need to have policies in place to deal with needs of different ethnic minority groups.

The DIA initial screening conducted by Jobcentre Plus on site selection presents more detailed data.

Overall these impact assessments are not sufficient to enable the DWP and Jobcentre Plus to demonstrate that they have adequately promoted race equality and met the general RED in relation to ESA. Whilst the lack of data is a main factor in this, again, the assumption made in the DWP assessment that because the policy will be applied equally there will be no direct impact in terms of race demonstrates a lack of understanding about what the duties are trying to achieve. There has also been no apparent consideration of the general duty in relation to the promotion of equality of opportunity (that is, are there any missed opportunities to do more to promote equality?) or good relations.

Gender – Again the consideration in relation to gender is primarily contained within the EIA carried out in March 2008. The EIA highlights issues for older women due to the disparity in State Pension Age between men and women and describes how the policy will take account of pregnancy.

It also includes headline figures of the numbers of men and women currently claiming incapacity benefit. Whilst the assumptions made and plans in place appear reasonable there has been no explicit consideration of the general duty in relation to the elimination of harassment. In this case, it is highly likely that this is covered by the quality standards set in Jobcentre Plus' contracts regarding how customers are treated, however EIAs should be able to demonstrate consideration of all aspects of the general GED.

Disability – The DEIA looks at the different key aspects of ESA in some depth and argues that the assessment element will more adequately deal with cognitive and intellectual function and will focus on the severity of functional limitation rather than the condition itself, which is welcomed.

The DEIA contains reflections on how ESA might promote positive attitudes to disabled people and encourage participation in public life. It also considers the general duties in respect of the elimination of harassment and taking steps to take account of disabled person's disabilities even if it means treating disabled persons more favourably. Again, this is very good practice.

It is clear that the personal capacity assessment has been thoroughly reviewed (with the involvement of and consultation with disabled people and a wide range of stakeholders) in respect of mental health conditions and anticipates that this will lead to more equitable assessments between groups of different impairments. There are also steps being taken to provide more accurate and relevant analysis of the impact of welfare reform.

Chapter 3: Reform of services for incapacity benefit customers

The second impact assessment done in May 2008, around the time the regulations were laid in Parliament, also includes consideration of disability and some quantitative data, but as there is no additional analysis it is unclear what this assessment really adds to the one carried out the previous year.

Conclusions – Overall the evidence suggests that DWP and Jobcentre Plus have adequately promoted disability equality and met the general DED, particularly in relation to elements that are frequently overlooked by public authorities. The Commission also notes that the availability of robust equality monitoring data, disaggregated by impairment type, is clearly set to improve as there is less evidence to suggest that DWP and Jobcentre Plus have adequately promoted race and gender equality since there is no depth of analysis and an acknowledged lack of data at the time the EIA was carried out.

The Commission is not suggesting that the policy is in fact leading to adverse impact in any way but simply that the issues were not considered in a sufficiently robust manner to enable DWP including Jobcentre Plus to be able to assure themselves on this point and that they are adequately promoting equality and meeting the full complement of general duty obligations. There is a real risk that adverse impact could eventuate or opportunities for promoting equality of opportunity and good relations will be missed if impact assessments are not carried out early enough in the policy development process.

Better co-ordination between the DWP and Jobcentre Plus in carrying out EIAs is also needed to ensure less duplication of effort in practice.



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4

Local Employment Partnerships



Local Employment Partnerships (LEP) provide an opportunity to see how Jobcentre Plus meets the duties when it is working in partnership with others.

Overview of policy

LEP are a partnership agreement between Jobcentre Plus and employers to provide 250,000 employment opportunities by the end of 2010. LEP aim to promote labour market participation by people who are currently at a disadvantage. They are designed to support priority customers including lone parents, disabled people, people who are long-term unemployed and other disadvantaged groups such as ethnic minorities.

In addition to working together to enable employers to recruit more of Jobcentre Plus' priority customers, under the agreement employers are expected to agree to a number of specific measures to help benefit claimants into work, for example work trials. In other words, employers participating in LEP are offered enhanced support if they support diversity in their recruitment practices.

LEP Agreements include support for customers living in the most deprived local authority wards (those with the poorest initial labour market position), including customers who are unemployed but not claiming benefits.

Some of the priority groups are clearly groups highly relevant to the duties (for example those with disabilities and lone parents, who are more likely to be women). In addition this policy is highly relevant to race due to the disadvantage many ethnic minority communities face in accessing work.

Just prior to publication of this report, Jobcentre Plus advised that there has been a change in policy and the agreements with employers would now be verbal rather than written. The LEP Agreement referred to below will instead be used as a guide for Jobcentre Plus account managers to make verbal agreements with employers.

Analysis of the extent to which the duties have been considered in the policy implementation process

General comments

Although the Commission's assessment relates only to the implementation of this policy, as opposed also to its development, the assessment needed to start with some consideration of the initial DWP equality impact assessments (EIAs) carried out during the policy development stage.

These EIAs, done as part of wider impact assessments in July and December 2007, both suggest that this policy intervention, by helping individuals to access job opportunities, will disproportionately benefit: women; ethnic minorities; disabled people and older long-term unemployed people. They highlight that under existing arrangements ethnic minorities and those affected by disability appear to have worse outcomes.

Chapter 4: Local Employment Partnerships

The EIAs specifically highlight that it will be necessary ‘to work closely with employers to ensure that they are committed to providing a supportive working environment for those from disadvantaged groups’ – and specifically highlight the provision of flexible working and reasonable adjustments as well as the need for employers to be committed more generally to the promotion of a diverse workforce.

The EIA done in July 2007 states that more detailed EIAs will be undertaken to determine the precise nature of these impacts. Neither the EIA carried out by DWP in December 2007 nor the diversity impact assessment (DIA) carried out by Jobcentre Plus in April 2008 (which is an initial screening only) add any depth of analysis to the information contained in the original assessment. However, Jobcentre Plus have advised that the DWP will carry out further impact assessments during the lifetime of the evaluation of the policy (2009–11).

In identifying issues of flexible working and reasonable adjustments the EIA has successfully highlighted two critical areas where, by working with employers, DWP and Jobcentre Plus can do more to ensure that people with caring responsibilities (primarily, but not exclusively women) and those with disabilities are able to take up job opportunities and meet their duties to promote equality of opportunity for men, women and disabled people.

There is, however, no explicit consideration of the duties around the elimination of harassment and discrimination, in respect of any of the general duties. The Commission would have liked to see more explicit acknowledgment that DWP with Jobcentre Plus could meet their duties in this regard through promoting the need for employers with whom they worked in partnership with to have sufficient policies and practices in place to address such matters.

The Commission is not suggesting that the duties are transferred to employers through the LEP relationship. However, Jobcentre Plus and DWP still need to promote equality when working in partnership, informal or otherwise, with others. Jobcentre Plus have indicated that the enhanced level of service they offer through LEP will be to those employers who demonstrate a long-term commitment to diversity in recruitment and who provide access to employment for their highest priority customers. When considering this level of service, Jobcentre Plus employment staff will discuss diversity and equality issues with employers.

The Jobcentre Plus’ DIA initial screening states that the policy will have a disproportionate impact on various groups, but, since the impact will be positive, says that a full DIA is not required. Again, this statement shows a lack of understanding of the full purpose of EIA. Where the process ceases on such a limited basis, an authority is unlikely to be able to demonstrate that it is meeting all aspects of the duties. For example, paying due regard to the need to eliminate harassment or promote positive attitudes toward disabled persons in public life.

Since this policy is primarily about working in partnership with employers and the EIAs/DIAs have successfully identified issues which would need particular attention, the Commission went on to look at Working with Partners – Jobcentre Plus approach to partnerships document, and a copy of the Local Employment Partnership Agreement. We also considered the plans for evaluating the effectiveness of the policy.

The Working with Partners document is quite generic but does make specific reference to the equality duties although its description of the duties omits certain key elements including the need to eliminate harassment (for Disability Equality Duty (DED) and Gender Equality Duty (GED)) and also the requirements to promote positive attitudes and encourage participation in public life for disabled persons. It also makes

no reference to the need to take steps to take account of disabled person's disabilities, even when this requires more favourable treatment.

The Local Employment Partnership Agreement makes no specific reference to the duties, but does spell out the need to review application processes and also consideration of flexible working patterns. It goes on to state that these would be agreed locally. It does not mention anything about the need to make reasonable adjustments.

The extent to which the issues raised explicitly within the EIAs (that is, around flexible working and reasonable adjustments) are effectively dealt with will depend heavily on the robustness of individual local agreements. The Commission is unaware of the reasons for the policy change from written to verbal agreements, but is concerned that the move to verbal agreements, which by their nature lack clarity, could lead to inconsistency of approach and make it more difficult to achieve the aims of this policy. Jobcentre Plus has advised that the extent to which flexible working and reasonable adjustments are successfully promoted will depend on the influencing and communication that supports the development of individual agreements conducted by Jobcentre Plus account managers, which will need to be closely monitored.

Whilst the evaluation strategy for this policy looks comprehensive, it highlights that data disaggregated by diversity characteristic will only become available from October 2009. The current progress reports to ministers are not disaggregated, making it difficult currently for the DWP including Jobcentre Plus to assure themselves that they are meeting their duties in the implementation of this policy. However, there are plans to carry out qualitative research with employers, Jobcentre Plus staff, customers, partners and providers four times between 2008 and 2010 in a number of districts.

The intention is to investigate the LEP experience through the analysis of personal characteristics of customers including gender, race and disability in more detail, which is very positive.

Race

Ethnic minorities are highlighted as being disproportionately affected by this policy, having been identified currently as a particularly disadvantaged group in accessing employment. The EIAs would be improved by identifying the different levels of impact on different racial groups.

The EIAs also highlight the need to work with employers so as not to preclude certain groups. This may implicitly relate to eliminating racial discrimination but the assessment should make this more explicit so that appropriate actions can be taken.

There has been no consideration of the general duty in relation to good relations.

Gender

In a similar way to race, the EIA highlights that Jobcentre Plus will need to work closely with employers to provide a supportive working environment, for example in terms of flexible working – but again there is no explicit acknowledgment of this within the partnership documentation. This again makes it difficult to be sure that these matters have been dealt with effectively.

Disability

Given that the need for LEP employers to make reasonable adjustments where necessary was highlighted in the EIA, it is unclear why the LEP Agreement does not mention reasonable adjustments explicitly. It is also difficult to know how Jobcentre Plus or the DWP are going to know whether or not the LEP have been effective in promoting disability equality, particularly now that the agreements themselves will now be verbal.

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There does not appear to have been any explicit consideration of the elements of the general duty regarding the promotion of positive attitudes towards disabled people and the encouragement of participation by disabled people in public life.

Conclusions

Overall DWP including Jobcentre Plus have taken steps in trying to meet some, but not all of the general duties in the early stages of implementing this policy. The extent to which they are actually able to meet the duties in the delivery of these partnerships will depend on how well these work on a local level. The continued promotion of flexible working and the provision of reasonable adjustments by employers will be very important. The Commission is concerned that the change from written agreements to verbal ones, which by their nature lack clarity, could lead to inconsistency of approach and make it more difficult to achieve the aims of this policy.

The further EIAs to be carried out by DWP as part of the evaluation of the policy will need to ensure that they add value to the assessments carried out to date and cover the elements of the duties that they overlooked. As one of the main purposes of carrying out EIAs is to be able to demonstrate that an authority is adequately promoting equality and meeting all of the general duties, it is important that the EIA process does not stop simply on the basis that the question of adverse impact has been considered.



5

New services for lone parents



This part of the assessment focuses on implementation of the new services and support provided by Jobcentre Plus to lone parents in the context of recent changes to lone parent benefit entitlements.

Overview of new services for lone parents

The Prime Minister announced the introduction of a number of new services for lone parents in September 2007. These included:

- a guaranteed job interview for every lone parent who is looking for or ready for work
- new support for lone parents in finding work, through the offer of group seminars (known as Options and Choices Events) and closer working with employers
- greater flexibility in the use of work trials allowing them to be extended up to six weeks where appropriate, and
- national roll-out of In-Work Credits, which had been successfully piloted.

The new services were tested out in two trailblazer districts (North and North East London and Birmingham and Solihull) before being rolled out nationally from April 2008.¹⁴

The new services were designed to benefit lone parents by:

- offering more intensive help to those with older children, helping them to move closer to the labour market, in preparation for the proposed changes to the Income Support regime from October 2008
- helping many more to move off benefits and into work, contributing towards the further reduction of child poverty

- helping them to move into work by matching increased support with a responsibility to look for work, once any entitlement to income support (IS) ends (based solely on the age of the youngest child)
- helping to ensure that people receiving working age benefits fulfil their responsibilities and are offered high quality help and support appropriate to their needs, while protecting the position of those in greatest need
- encouraging more lone parents to engage in work preparation activities that secure work with a Local Employment Partnership (LEP) employer.

These new services are clearly highly relevant to gender, race and disability equality.

Analysis of the extent to which the duties have been considered in the policy implementation process

Jobcentre Plus carried out an initial screening on these new services in November 2007. While this exercise was more than simply an assessment of relevance, it concluded that a full diversity impact assessment (DIA) was not necessary. The initial screening was intended to inform similar assessments that would be conducted by the two trailblazer districts where the measures were trialled from January 2008. These in turn were to inform the national roll-out.

The aims and beneficiaries of the new initiatives, qualifying conditions and details of how they would be implemented were clearly set out, including details of how they would interact with related policies.

The document contains some useful data on the proportions of lone parents who were entitled to these new measures in relation to gender, race, disability and age. There is good analysis based on gender. Statistics based on ethnicity are expressed simply as 'White' and 'Non-white' or by the five broad Census race categories.¹⁵ Jobcentre Plus have confirmed that data collection is not limited to these groups and that they are sometimes used to summarise more detailed data, when the numbers make it more meaningful to do so.

In relation to disability, the statistics focus on lone parents who have declared a disability or have been in receipt of a Disability Premium. There is no analysis by impairment type, which could have a significant impact on an individual's ability to take up some of these services. However, Jobcentre Plus have confirmed that most of the new services (In-work credit, work trials, guaranteed job interview) are specifically targeted at lone parents who are affected by the new entitlement changes or are otherwise ready to work. Lone parents who are disabled or who care for someone with a disability are not subject to the new obligations and will continue to be able to claim IS or another appropriate benefit such as Employment and Support Allowance (ESA).

As having a disability need not always prevent a lone parent from being 'job ready', it would still be prudent to monitor take up of these services by impairment type. Jobcentre Plus have confirmed that they do collect and analyse data by impairment type through existing management information arrangements and the formal evaluation specification will allow for this and all other diversity characteristics.

In addition we would consider it good practice to extend analysis to lone parents with caring responsibilities for disabled people particularly in light of the recent **Coleman** case.¹⁶ Jobcentre Plus does have a marker for childcare responsibilities, and there is potential for benefits data to be cross-matched to identify

some categories of other carers. It is noted that DWP and Jobcentre Plus are currently engaged in work to improve work-focused support for carers and this includes high level proposals to introduce a marker that will identify carers, notwithstanding their other personal circumstances. The initial screening did not cover staff because 'no changes have been identified that will impact on staff'. Jobcentre Plus have confirmed the sound basis for the conclusion, but acknowledge that the document could be improved by explaining the basis for such a conclusion.

The initial screening indicates that Jobcentre Plus maintains contacts with interested third parties and is sufficiently aware of their views to inform this stage of the DIA. However, PCS indicated that they felt that more consultation should have taken place given that this was a national assessment. While no specific consultation was undertaken for the purposes of this stage of the DIA (Jobcentre Plus' DIA process only provides for this at the full assessment stage – see Chapter 6), Jobcentre Plus advised that many of the new services were variations of existing initiatives, that were themselves subject to consultation. These policies are a good example of how a large number of changes can follow in very quick succession over a short period, which poses challenges in terms of coherent assessment and marshalling evidence from a wide range of sources. In this instance, Jobcentre Plus did not feel that it would have been reasonable or proportionate to commission fresh consultation with external stakeholders.

The Commission acknowledges that it will not always be necessary for Jobcentre Plus to undertake a formal consultation exercise to identify the needs of particular groups, where these are known through some other means. This is particularly the case if another part of the DWP has already consulted widely on a proposed policy and it has been passed on to Jobcentre Plus for implementation. However,

transparency will be important in such circumstances. Where possible Jobcentre Plus' equality impact assessments (EIAs) should signpost the reader to any relevant consultation carried out by another part of the DWP at the policy development stage, highlight any concerns raised and indicate how these will be addressed and monitored during implementation. This is important to ensure that consideration of equality impact from policy development to implementation is as seamless as possible. In any event, Jobcentre Plus should be able to show that it has thought about whether previous consultation was sufficient and whether it would be appropriate to consult further.

The initial screening concluded that there was no need for a full DIA, but that this would be revisited following evaluation of the trailblazer pilots. Jobcentre Plus have advised that there was an exercise to evaluate and apply lessons from the trailblazer pilots before national roll-out. Some process and guidance issues were addressed as a result of this exercise. That is, guidance on communicating information on Options and Choices to customers with English language difficulties was improved, but it did not throw up any evidence that the initial screening needed revisiting. Other than the external evaluation of Options and Choices Events,¹⁷ this evaluation process does not appear to have been documented. There is therefore little evidence at present of further consideration of equality impact of the trailblazer pilots or analysis of any equality monitoring since the new services were rolled out nationally in April 2008.

Jobcentre Plus have indicated that a formal Lone Parent Obligation evaluation is to be commissioned, which will address equality impacts. They also point out that some of the initiatives were already being delivered to a certain extent where lessons had been learned. For example, staff were already delivering work trails (the change was simply to extend these

from three to six weeks). In-Work Credit was already in place in pilot areas (the change was to roll the process out nationally) and supporting guidance for staff has been improved. While this is encouraging, it also highlights the importance of ensuring that EIAs that may have been undertaken on previous iterations of policies are taken into account when further changes are made. It may be more effective in such situations to update and develop the earlier EIA, incorporating changes and new data/evidence, rather than starting all over again.

The screening points out that these measures are going to affect certain groups more than others because they have a much higher representation among lone parents, particularly women, but that people from all diversity groups within the lone parent client group will benefit from the changes. However, the extent to which each of the groups that are supposed to benefit have or will benefit remains unclear, hence the need for ongoing monitoring of the impact that these new measures are having on different groups. For example, it may be that the take up of the voluntary Options and Choices Events is low for lone parents with caring responsibilities for disabled children.

Jobcentre Plus have confirmed that this is exactly what the formal evaluation will consider and that the intention is to implement these changes in a manner that takes into account the needs of lone parents who will be affected. This is supported by other evidence, including the internal guidance issued to staff on Options and Choices Events.¹⁸ Furthermore, one of the reasons for selecting the pilot trailblazer districts was to enhance Jobcentre Plus' capacity to assess the impact of changes on ethnic minorities as a significantly higher proportion of lone parents are ethnic minorities in those districts compared to Britain as a whole.

Statements in the screening like ‘there will be no differentiation in the support available, whether for disabled people, older workers, male or female, or from an ethnic minority background’ are unhelpful as it appears to contradict the approach identified in the examples above, where the needs of particular groups are being identified and met. While thought has clearly gone into the needs of particular lone parent groups in advance of implementing the policy, Jobcentre Plus needs to reinforce the message to staff that it is appropriate to take steps to account for the differing needs of diverse groups in the way they deliver their services to customers as well as consider positive action measures where it is lawful to do so.

Jobcentre Plus also carried out DIA ‘initial screenings’¹⁹ on In-Work Services for Lone Parents in March and April 2008. The screenings covered additional support being rolled out for lone parents, particularly those with older children having to move onto jobseeker’s allowance (JSA) following changes in their entitlement to IS. The new measures included In-work Advisory Support, In-Work Emergency Discretion Fund (from April 2008) and In-Work Credit Retention Pilots in selected areas from July 2008.

The initial screening concluded that a full DIA was not required because the groups of lone parents that were most likely to benefit, albeit disproportionately, were the groups that were amongst the most disadvantaged in society, and the most in need of the support that the initiatives were designed to provide. It also concluded that sub-national DIAs were not required because there would be no discretion regarding the policy or target group and participation in the initiatives would be voluntary.

Policies designed to assist the most disadvantaged groups in society are always welcome and are in themselves evidence that the DWP and Jobcentre Plus have some intention of paying due regard to the various

elements of the duties. However, to conclude that there is no need for further assessment of impact because the policy has such aims or because participation in the initiatives is voluntary demonstrates too narrow an understanding of the purpose of EIA and the duties more generally.

A robust EIA ought to set out how a policy change will be equality monitored post implementation to ensure that its aims are being met. There is no mention of the need to assess or monitor take up of the services by different equality groups to ensure that any barriers are identified and addressed where possible. This is particularly important where EIAs are not carried out at sub-national level because staff have no discretion in terms of how the policy is applied/the target group and where participation in initiatives is voluntary.

Jobcentre Plus have indicated that they generally carry out ongoing monitoring through use of management information and performance data, and that DWP colleagues carry out more formal evaluation and analysis. In this case, the actual take up of the services will be carried out by the DWP as it is responsible for the formal evaluation of this policy. This evaluation, which will include wider equality impacts, is about to be commissioned, ensuring sufficient numbers for meaningful analysis.²⁰ The EIA would have been significantly improved by including these plans for future equality monitoring.

Jobcentre Plus have confirmed that monitoring requirements are almost always determined at national level, but include the capacity to disaggregate data to local level. In this case, data for these initiatives would be derived from work developed for earlier initiatives, which meant that no new data collection requirements were generated. Again, the EIA would be more robust if it highlighted these factors.

Conclusions

The new services for lone parents are in themselves evidence that Jobcentre Plus and DWP are taking steps to promote equality of opportunity and meet other elements of the general duties. However, there are some weaknesses in the EIAs carried out by Jobcentre Plus that will need to be improved upon to ensure that this is the case and particularly to avoid missed opportunities for promoting equality and good relations.

There is no evidence that any particular group is currently being disadvantaged in any way by the new proposals. Again, however, to adequately promote equality and meet all aspects of the general duties, it is important that EIAs do not stop at the screening stage simply on the basis that the question of adverse impact or disadvantage has been considered. The extent to which the DWP is meeting the general duties in this area will depend heavily on the scope of the formal evaluation of the national roll-out being commissioned by DWP and how it acts on the results of its equality monitoring as evaluation of the trailblazer pilots only covered equality impacts in a very limited way.

There also needs to be greater transparency about concerns raised by stakeholders and people affected by the proposed policies, particularly where Jobcentre Plus is relying on consultation carried out by DWP as opposed to consulting itself.

6

Policies, systems and procedures for meeting the public sector duties



This final part of the assessment looks at the arrangements that Jobcentre Plus has in place to meet the duties, as detailed in the terms of reference. Whilst these are requirements of the specific duties they form an important part of the overall assessment as they were designed to assist public authorities to meet the general duties.

Arrangements for equality impact assessment

Jobcentre Plus' combined Race, Disability and Gender Equality Schemes 2008–11 (the Schemes) indicate that Jobcentre Plus follows DWP processes to ensure it assesses the impact of proposals and changes in relation to race, disability and gender by carrying out diversity impact assessments (DIAs).

The DWP revised its guidance and impact assessment tool in 2006 and again in November 2007 to incorporate the new duties. From 1 December 2006 all staff are required to complete an assessment considering the impact of any proposed policy changes on race, disability and gender equality. This is said to be built into formal internal governance processes to ensure that equality impact assessment (EIA) is an integral element of the policy-making and change management process. EIAs are to be published internally (intranet) and externally (internet) with responsibility for publication falling on the 'change owner'.

Business units such as Jobcentre Plus are given scope to produce their own additional EIA guidance to 'support local business needs'. Jobcentre Plus introduced its own DIA toolkit in 2005. This was substantially revised following the introduction of the Disability Equality Duty and republished in January 2007. In May 2007 Jobcentre Plus introduced its own framework and guidance for meeting the duties in relation to service delivery called the Diversity Challenge (DC).²¹

Jobcentre Plus' Diversity Challenge

The DC is designed to be a framework for staff to make the commitments outlined in Jobcentre Plus' Schemes a reality and meet the duties in relation to service delivery.²² It is therefore a core part of Jobcentre Plus' arrangements for assessing and monitoring the equality impact of its policies.

Its stated aims are to help Jobcentre Plus:

- baseline where it is against the requirements of equality legislation
- make improvements to the delivery of its services to priority customer groups and ensure its services are accessible, available and appropriate for all its customers
- to contribute to the Government's aspiration of increasing the employment rate from 75 per cent to 80 per cent, and
- deliver the mandatory business planning objective on diversity.

The DC consists of two frameworks, for operations and policy. Each framework is made up of a set of questions and corresponding challenges, requiring supporting evidence to be gathered and action plans to be developed. The guidance includes links to a wider range of internal and external sources of information. It also refers staff to information that may already be available in relation to districts that completed the previous Race Equality Scheme Challenge.

The questions, challenges and guidance are comprehensive and user friendly. These relate to involving and consulting local organisations and individuals; ensuring services are accessible, available and appropriate to diverse groups; identifying which groups are disadvantaged when using services; ensuring the potential impact of any proposed changes are assessed against diversity legislation; promoting diversity and equality principles in all partnerships; incorporating the DC into every aspect of the 2008/09 business plan; informing colleagues about DC action plans; and ensuring action plans include training so that staff have the skills and knowledge to meet the requirements of the duties.

The DC appears to have a clear governance structure and support from senior management. The Chief Executive and the Director of Employers and Stakeholders (then Director of External Relations and Communication) have signed pledges accepting responsibility for delivering the DC throughout Jobcentre Plus and senior managers have also signed pledges accepting responsibility for implementing the DC in their business areas. Governance sits within each Operational Delivery Network (ODN) with assistance from Regional Performance Managers and External Relations Managers.

Each ODN and policy directorate is required to respond to the questions, gather supporting evidence and develop an action plan that demonstrates how the work will be taken forward.

The principles of the DC are said to extend to age, religion and belief and sexual orientation.

The guidance on identifying whether any groups are disadvantaged when using services only requires staff to consider information presently available. Where gaps are identified, staff are directed to refrain from setting up new processes or systems as 'Throughout the 2007–08 operational year Partnership Division will be developing a process for gathering information'.

Jobcentre Plus are in the process of undertaking a major review of its diversity and equality monitoring across key stages in the customer journey and staff and policy implementation lifecycles (see further below). This will be important in order to address gaps in the evidence base as and when they arise.

The challenge and guidance relating specifically to DIAs refers only to identifying the potential impact of proposed changes. It does not require the reader to identify the impact of existing policies and practices. While the race, disability and gender specific duties use different language when it comes to what is required of public authorities' arrangements in relation to policies and proposed policies²³ a common thread is the need to identify the impact of all policies and practices.²⁴ However, we understand that Jobcentre Plus is developing joint project arrangements with the Welfare, Work and Equality Directorate (WWEG) to manage an integrated assessment of existing policies.

The DC would be clearer if it explained what the duties actually require. The definition of 'public sector duty' in the glossary is not very helpful, although there is a link to the Commission's website. The DC often refers to 'responsibilities', which is defined in the glossary, but the definition is too general to be of much use to staff undertaking the DC. This is particularly important in the context of the learning and development challenge, which highlights the need for staff to be made aware of their own personal 'responsibilities'. Furthermore, there is no reference to key duty resources such as the statutory Codes of Practice and other non-statutory guidance on each of the duties issued by the former Commission for Racial Equality (CRE), Disability Rights Commission (DRC) and Equality Opportunities Commission (EOC), which still remain in force. These are key areas that are important to get right in order to adequately promote equality and meet the duties.

The challenge relating to learning and development simply asks the person undertaking it to 'confirm that your people are fully aware of their diversity and equality responsibilities...'. It is all too easy to simply answer yes to this question and move on without actually identifying whether staff have sufficient knowledge and skills to meet the duties, particularly staff responsible for carrying out DIAs and monitoring the ongoing impact of policies, practices and functions. However, Jobcentre Plus advise that its foundation learning includes both mandatory and discretionary equality elements. Staff training needs and performance are monitored by line managers in respect of equality and diversity. The DWP is currently developing a new diversity and equality mandatory training product for use across the department. Jobcentre Plus have recognised however that they need to ensure that staff who carry out DIA receive the necessary training. Jobcentre Plus intends to include advice on addressing staff development needs in respect of the conduct of EIA and understanding of the duties as part of the guidance to support the new Diversity Challenge, which is very positive.

Staff completing the operations DC are required to produce an action plan to demonstrate how the work is being taken forward, but are only voluntary for policy directorates. Jobcentre Plus indicated that this is mainly because their Diversity Business Partner Network who support the action planning process have historically only been attached to operations.

Last year Jobcentre Plus identified the need for a national directorates Diversity Business Partner (in post since November 2008, working as a priority with colleagues who are responsible for introducing change within Jobcentre Plus) and intends to include a new focus on directorates in their new DC. They further advise that operational and policy directorates operate in a different environment and span a very disparate range of corporate functions, making it much less easy to set a universally applicable DC.

The policy DC seems to lack some of the rigour of the operations DC in that it omits steps to identify diversity characteristics and involve or consult those affected by policies, or to consider the appropriateness of policies for diverse groups. Jobcentre Plus advise that monitoring requirements are set out in the DWP Diversity and Equality Monitoring Strategy, but acknowledge that this could be reinforced within the new DC. The same can be said for requirements to involve those affected by policies, which are addressed by both the DWP's Corporate Customer Affairs Guidance and Jobcentre Plus' Working with Partners framework.

The relationship between the DC action plans and the Schemes' action plans is unclear. As both are likely to contain important steps for ensuring Jobcentre Plus meets the general duties, these will be more effective if they can be linked in some way. Jobcentre Plus advised that they are currently updating their Schemes and will take the opportunity to clarify the relationship between the DC (internal delivery mechanism) with the corporate work programme set out in their Schemes.

As the DC was designed to support Jobcentre Plus in ensuring that its services are accessible, available and appropriate for its diverse customers, it does not apply to Jobcentre Plus' duty obligations as an employer, which are dealt with elsewhere. Jobcentre Plus has indicated that it would be desirable to include employer functions within the new DC, which is to be launched later this year. This is welcome, given the significance of Jobcentre Plus' employment functions to the promotion of race, gender and disability equality and the strengths and potential of the existing DC highlighted above.

Jobcentre Plus' Diversity Impact Assessment Toolkit

Jobcentre Plus revised its toolkit in January 2007 following the introduction of the Disability Equality Duty (DED) and in advance of the introduction of the Gender Equality Duty (GED).²⁵ It includes a template which is to be used to assess the equality impact of policy changes relating to staff and customers. It is to be used for changes initiated at national, regional or district level, regardless of whether a change is initiated by DWP or by Jobcentre Plus.

Where a change has been initiated by the DWP and passed to Jobcentre Plus for implementation, a copy of the EIA conducted by DWP is to be requested, but it is made very clear that the Jobcentre Plus DIA must not be delayed or not undertaken if the DWP are unable to produce the document immediately. It is positive that Jobcentre Plus acknowledges the importance of not delaying any consideration of equality impact, but it is equally important to ensure that Jobcentre Plus builds on work already done by DWP and feeds into it as early as possible rather than starting a new process/document in isolation. While we would not recommend that Jobcentre Plus delay carrying out a DIA if the DWP has not done its own EIA (which is now unlikely to be the case), the two processes need to be as seamless and integrated as possible.

The toolkit includes an initial screening stage and a full impact assessment stage. The purpose of the initial screening as set out in the toolkit is confusing. On the one hand the screening is said to be about determining a proposed policy's 'relevance' to equality. On the other hand, the fact that a full impact assessment is only required where the screening has identified potential adverse and disproportionate impact on different groups or identified gaps in the relevant baseline diversity data on customers, staff and the wider community, suggests that the screening is more than just about relevance. Jobcentre Plus advise that the initial screening

does involve the assessment of impacts, as the initial screenings considered as part of this assessment demonstrate. However, these have tended to fall short of what would be expected of an effective EIA. With efforts being focused on initial screenings, Jobcentre Plus' full DIA process appears to be under-utilised.

Jobcentre Plus needs to adopt a wider concept of assessing impact to more effectively promote race, disability and gender and meet the duties as they currently stand but also to prepare for the likely introduction of an equality duty in the near future. It is the Commission's view that effective EIAs ought simply to be carried out on all policies that are relevant to race, disability and/or gender equality. Screening is therefore only necessary if there is any doubt as to a policy's relevance. Jobcentre Plus agree that they need to review their arrangements including the role of initial screening to ensure better joining up with WWEG assessments. The Commission's new guidance will assist with this process.

Where the DWP has already gone through a process of determining how relevant a policy or change is to the promotion of race, disability or gender equality, it is unclear what a Jobcentre Plus screening of the policy adds to the process. Jobcentre Plus agree that there is a need to integrate DWP and Jobcentre Plus assessment for a more joined up approach.

The fact that the toolkit only guides people to conduct a full impact assessment where potential adverse or disproportionate impact has been identified is a critical weakness in the toolkit. As highlighted in earlier chapters, this approach overlooks important aspects of the general duties. The guidance could also be interpreted to mean that you need evidence of potential disproportionate impact, potential unlawful direct or indirect discrimination, and potential to affect relations between diverse groups before a full impact assessment is required. This is far too high a threshold. Again, the Commission would recommend simply that

an EIA is carried out once a policy has been identified as relevant to the general duties to ensure that all these are met.

Having said that, the toolkit is comprehensive in the way that it seeks to identify the potential for adverse impact, direct or indirect discrimination and effect on relations between diverse groups. It includes important steps to:

- supplement any gaps in available information
- involve and consult all relevant groups and staff that will be directly affected by the change, and
- monitor and evaluate arrangements.

The way in which it deals with potential for direct and indirect discrimination demonstrates good practice.

A DIA checklist is provided to help identify which groups a policy is likely to impact upon positively and negatively. The categories used cover all the key groups including Census ethnicity categories and a range of disability impairment types. It also includes consideration of transgender people which is very welcome as this group is often overlooked. The checklist needs to be widened beyond just positive and negative impact, however, to reflect the full range of elements of the general duties. For example, does the policy promote positive attitudes towards disabled persons, equality of opportunity between men and women, and good relations between different racial groups?

The toolkit reads as if it applies only to policy changes, whereas it would be expected also to be used for carrying out the DIAs on the range of current functions and policies set out in the timetable in Jobcentre Plus' Schemes.²⁶ We understand, however, as highlighted above, that Jobcentre Plus are addressing the need to carry out DIAs on existing policies and functions.

Where a proposed change gives no discretion for modification at local level, in terms of delivery or application, the guidance only requires a national level DIA. Where this is the case the toolkit makes clear that district and regional colleagues are still responsible for paying due regard to diversity and equality responsibilities in the delivery of policies and processes. In a sense, if staff have no discretion as to a policy's delivery or application, it is difficult to see how they can be expected to 'pay due regard'. The toolkit would be improved by being more specific about what is required of district regional staff in such circumstances and who is responsible for equality monitoring at local level in order to inform any DIAs being carried out at national level, although we understand that monitoring data is normally gathered centrally through data systems, and designed to be disaggregated locally. The main thing is to ensure that the decision makers can take into account the needs of all groups at national, regional and district level and where necessary consider alternative ways of meeting their aims.

The actual DIA template omits Question 4 of the assessment process, which asks 'how will you continue to monitor and evaluate the change in the future?'. This is an important step and one that links Jobcentre Plus' DIA arrangements with its arrangements for ongoing monitoring of policies for any adverse impact on the promotion of race equality (see TOR 2(b)). Jobcentre Plus advises that this administrative error has now been rectified.

Jobcentre Plus' Race, Disability and Gender Equality Schemes

The Schemes could be improved by including a reference to the tools and guidance available to help staff carry out DIAs, such as the results of the DC. The Schemes could also be improved by including a brief explanation of what Jobcentre Plus will do in the event that DIAs identify adverse impact, missed opportunities etc. An example of good practice would be to include an example of how Jobcentre Plus has been able to overcome any potential adverse impact or how it has encouraged participation by disabled persons in public life etc as a result of its DIA process.

Arrangements for monitoring race impact and to gather and use information on the effect of policies and practices on men, women and disabled persons

Jobcentre Plus is currently undertaking a major review of its monitoring systems and evidence base in respect of equality to help it to use the diversity data that it collects in a more systematic way.²⁷ It will include looking at data on impairment type where this is available as well as some categories of people with caring responsibilities (which are captured on their systems). This is most welcome. The Commission acknowledges that the DWP was rated strong in the area of evidenced-based policy making in the 2008 Capability Review.

Customers

Jobcentre Plus' Schemes highlight that it already collects a great deal of diversity information about its customers, but that it could use the information gathered in a much more effective and systematic way. The review referred to above is designed to assist with this.

The Scheme's disability equality action plan includes a number of steps designed to ensure that Jobcentre Plus considers specifically the extent to which its functions, policies and services meet the needs of disabled customers and takes account of these needs. These have been identified through the involvement of individual disabled customers and consultation, monitoring and evaluation (all of which is detailed in the Schemes). The DIAs considered in earlier chapters support this assertion to the extent that they consider potential for adverse impact, but could be improved to ensure consideration of how well a policy will meet all the limbs of the general DED.

Staff

The Schemes states that Jobcentre Plus monitors, analyses and evaluates a range of information on its staff to meet the specific requirements of the Race Relations Act, Disability Discrimination Act and Equality Act.

Both the DWP and Jobcentre Plus Schemes and action plans omit who is responsible for gathering and analysing Jobcentre Plus employment data. Such actions are important so that there is a solid evidence base to inform the EIA and policy development process in relation to policies affecting staff. We are advised by Jobcentre Plus that responsibility for this sits at several levels. The Department is responsible for overall workforce monitoring and the RM system gathers statistical information that can be disaggregated. Responsibilities for the analysis of data, however, are at every level within the business. Furthermore the Diversity and Equality Monitoring Scheme includes a strategic examination of key workforce data.

We would recommend that actions regarding collection and analysis of equality data are set out in the DWP's and Jobcentre Plus' Schemes as appropriate. Both Schemes should also include a statement of what data they are legally required to collect/use by reference to each of the specific duties as well as arrangements for monitoring them and feeding this information into policy development processes, as this is presently not very clear. Jobcentre Plus' Scheme should dictate what it would do if its analysis of the data revealed any disproportionate or adverse outcomes for particular groups of staff. Greater transparency in this area is also likely to support efforts to increase rates of declaration of diversity information by staff.

Consultation and involvement

Jobcentre Plus' Schemes include clear information about the detailed consultation and involvement carried out with diverse groups for the purposes of developing the Schemes. They also include the methods used to obtain the views of a diverse range of customers on what they thought about Jobcentre Plus' services generally as well as what employees think about how it is performing as an employer generally. However, there is no specific commitment to consulting with customers and staff who are likely to be affected by a proposed policy as part of the policy development and implementation process, that is, as part of a DIA, which should be addressed.²⁸

The DIA toolkit appropriately highlights that involvement and consultation is a key stage in any DIA that should always be planned into a proposed change. However, consultation is only required if a policy undergoes a full DIA. The Public and Commercial Services Union (PCS) have expressed concern that Jobcentre Plus doesn't always consult them on matters of concern to their members, particularly where a policy has been screened as not to require a full DIA (which in turn means, under current

arrangements, that formal consultation will not take place). Jobcentre Plus, however, advise that they consult the unions regarding changes through their Industrial Relations Framework, regardless of whether these fall within the scope of a DIA. As Jobcentre Plus have rarely carried out full DIAs capturing the details of consultation, this gives the appearance that consultation on equality issues is quite limited, irrespective of whether it has taken place. Given that the Commission has concluded that a number of the screenings appear to have halted the DIA process prematurely, the lack of explicit consideration within the impact assessment of consultation activity is a valid concern and one that needs to be addressed.

The toolkit also highlights the need for openness and transparency in relation to consultation with results to be published in summary form. The toolkit advises that individuals and/or groups of people from the relevant diverse groups should be involved and consulted (including trade unions) but that involvement and consultation should not be used too often or the same groups approached all the time. While it is important to consult and involve a wide variety of groups as part of evidenced-based policy making and avoid 'consultation fatigue', there may be some groups that it will nearly always be desirable to consult. For example, policies having implications for staff will necessitate consultation with trades unions and the Staff Diversity Network Groups. Rather than direct that consultation and involvement should not be used too often, we recommend guidance highlights the need for it to be proportionate to the relevance to equality of matters being consulted upon.

Jobcentre Plus has developed a national 'working with partners' framework which aims to ensure its approach to external engagement is consistent and inclusive and takes account of legislative requirements. It has appointed a network of regional and district external relations managers, who seek to engage with representatives from all sections of their community. It has also set up a National Customer Representative Group Forum which meets every two months. In 2007 Jobcentre Plus conducted a customer satisfaction survey specifically aimed at assessing how customers felt about their first contact with Jobcentre Plus. These measures are very welcome.

Staff Diversity Network Groups

Jobcentre plus recently reviewed and re-launched its Staff Diversity Network Groups which operate at district, regional and national level covering race, belief, sexuality, age, disability, gender and work-life balance. The purpose of these groups is to provide a forum to input into policies that are for the benefit of both staff and customers. For example the SDNG chairs met with the monitoring research contractor as part of their evidence review to provide insight into work diversity issues as part of the qualitative analysis. They have also been involved in the design of Jobcentre Plus' Diversity Week supported by Partnerships Division and launch of the 'diversity passport' designed by the Jobcentre Plus Disability Diversity Staff Network Group. The passport is designed to capture any diversity information that has an impact on an individual's day-to-day working life such as reasonable adjustments, caring commitments or work-life balance issues. The form is used as a basis for discussion between the member of staff and their line manager.

A staff survey is carried out annually and includes questions about the experiences of staff from diverse groups (including age, race, health condition, educational background,

gender, sexual orientation, domestic caring responsibilities, religion and belief, grade and working pattern).

Governance

Jobcentre Plus advised that directors are required to provide formal assurances to the Chief Executive that they have complied with, among other things, diversity and equality legislation. Directors are required to give their directorate a risk-based rating on how effective or adequate their performance has been and cite brief evidence in support of the rating. This is a welcome initiative, but the assurances provided would be more robust if the evidence described was more specific and verifiable and linked to the actions contained in the Scheme's action plans or DC action plans, as currently much of the evidence cited is quite general.

Training and other guidance for staff on carrying out DIAs

Staff carrying out DIAs are supported by a Diversity and Equality Team, who provide expert advice to business owners carrying out these assessments both within corporate centre and across the operational delivery network.

What is not clear from the Schemes is what training is provided to staff on the duties (an explicit requirement for the RED), and particularly whether staff involved in policy development and implementation are also trained on consultation and monitoring (data gathering and using). However it is clear that Jobcentre Plus does provide training on equality and diversity and has developed a wide range of learning and development products. Staff are trained on the duties themselves as part of the Foundation Training. Jobcentre Plus advised that between 2005 and 2007 approximately 300 staff received detailed training on completing DIAs and that 1,100 regional staff have been

covered by awareness sessions delivered by Diversity Business Partners during the same period. Jobcentre Plus are also commissioning a formal evaluation to assess how well their current support arrangements support staff in business roles.

Conclusions

General

Jobcentre Plus amended its systems and arrangements for meeting the RED following the implementation of the DED and GED. For the most part, these systems are well developed and have the potential to be highly effective in meeting the duties, particularly the DC framework. However, the new arrangements do not fully capture the distinct differences in the requirements of each of the duties. This is particularly evident in relation to DIAs that appear to focus mainly on identifying adverse impact as opposed, for example, to also looking out for missed opportunities to promote equality of opportunity and good relations between groups.

Embracing a wider concept of ‘assessing impact’ is needed not only to more effectively promote equality and meet the duties as they currently stand but also to prepare for the likely introduction of an equality duty in the near future.

It may be that Jobcentre Plus staff are trained to approach impact assessment in the wider sense, but this is not adequately reflected in the DIAs examined to date.

The review of equality monitoring systems is welcomed as Jobcentre Plus clearly already collects a large volume of monitoring data. Using such data effectively will assist with evidence-based policy making and enable the department to more effectively promote equality to its full extent.

The DC is an innovative initiative that has great potential to assist Jobcentre Plus and the DWP in meeting the duties. Ultimately, the effectiveness of the DC will depend heavily on how well the DC action plans are integrated into the Department’s business planning.

Race

The arrangements for DIA highlight the importance of consultation with groups likely to be affected by policies at the early stages of the policy development process, although consultation will not always take place at the initial screening stage. As consultation is only formally required at the full DIA stage, and full DIAs are rarely undertaken, consultation on equality issues can appear to be quite limited. Although Jobcentre Plus’ initial screenings go further than considerations of simple relevance and do consider impact, without including transparent details of consultation they cannot be considered completely effective EIAs. Where Jobcentre Plus claims to be aware of the views of stakeholders and those likely to be affected by policies, it needs to ensure that it incorporates and considers these views in a transparent way as part of any DIA.

Disability

Jobcentre Plus’ arrangements appropriately highlight the need to consider impact on a full range of impairment types rather than on disabled people generally. The arrangements need to focus more on paying due regard to the need to promote positive attitudes towards disabled people, encourage participation by disabled persons in public life and take steps to take account of disabled person’s disabilities, even when this involves treating disabled persons more favourably than other persons.

Gender

The DIA arrangements could be improved by focusing more on missed opportunities to promote equality of opportunity between men and women.

7

Overall conclusions and recommendations



Conclusions

This is the first formal assessment undertaken by the Commission under s31 of the Equality Act 2006. It was undertaken as both the Commission and the legacy commissions before it have found public authorities, across most sectors, including government departments, failing to comply with their obligations under equality legislation when formulating and implementing policy. Furthermore they are being increasingly criticised by the courts for this failure. This was an opportunity therefore to undertake an assessment of how one particular government agency (of which there are many) had addressed its obligations under the equality enactments and how these were affected by its particular relationship with the sponsor department. Jobcentre Plus was not chosen at random, but in response to what appeared to be well-founded complaints made by Jobcentre Plus staff and trade union representatives relating to two specific incidents where they questioned whether the equality impacts of policy changes had been adequately assessed and addressed.

The assessment was somewhat complex as Jobcentre Plus and indeed DWP have developed and endeavoured to improve their systems and equality outcomes overtime and continue to do so. Nevertheless the assessment provides what we consider to be useful lessons to learn for Jobcentre Plus and DWP in particular as well as others having to comply with their duties under equality legislation.

DWP and Jobcentre Plus have clearly given a lot of thought to the systems needed to enable the department to meet the Race Equality Duty (RED), initially, and then amended these systems in light of their work to the Disability Equality Duty (DED) and Gender Equality Duty (GED). We would however advise them to ensure that they give sufficient attention to those elements of these duties which appear to have been overlooked in the process.

Overall the Department has demonstrated that it is taking into account many elements of the general duties. However, the assessment has identified some areas where their systems designed to meet the duties are inadequate. In particular, diversity impact assessments (DIAs) do not seek to identify the full range of matters covered by the duties. Jobcentre Plus has not made use of its full DIA process, instead carrying out initial screenings that, although going beyond assessing a policy's relevance to race, disability and/or gender, often fall short of demonstrating sufficient regard for each element of the duties. In some instances there appears to be a misunderstanding by those carrying out the assessments of their ultimate purpose and what they are designed to achieve. For example, some of the Jobcentre Plus initial screenings contain assumptions that equal treatment will automatically lead to equal opportunity rather than acknowledging that meeting the duties will sometimes require going beyond equal treatment, particularly in relation to disability equality. This contradicts apparent attempts elsewhere to meet the needs of particular groups.

The availability of appropriately disaggregated equality data on which to base decisions is clearly still a challenge but the Commission notes that the action has and continues to be made to improve the quality of data and monitoring information as well as how that information is put to use.

It is not always clear how some of the DIAs relate or build on assessments carried out previously on related policies or earlier iterations of policies, whether by Jobcentre Plus or by other parts of the department, which is likely to be hampering efforts to promote equality and effectively discharge the full spectrum of the duties. The Commission would encourage the DWP/ Jobcentre Plus to take a more joined-up and strategic approach to its equality impact assessment (EIA), which may sometimes mean producing fewer or less-fragmented EIA documents.

All this means that DWP/Jobcentre Plus is not fully complying with all of the general duties. However, there is already evidence that many of the areas of concern are being or will be addressed. Jobcentre Plus have advised that they are already planning to address areas of weakness, for example through the next version of the DC to be launched later this year, which will put it in a better position to measure compliance with the duties. In addition, it has undertaken significant activity to review its equality evidence base, the first phase of which is expected to reach a conclusion later this spring. The Department, including Jobcentre Plus, is reviewing the structure of EIAs/DIAs and associated guidance. The Department has also commissioned over-arching review activity across all of its businesses to identify existing good practice and areas where remedial action is required. These measures are welcomed.

The Commission also believes that many of the steps that need to be taken to comply with the duties are not too burdensome and are proportionate. The Commission has therefore set out a number of recommendations for DWP/Jobcentre Plus below to enable them to do this.

In addressing the findings of this assessment, Jobcentre Plus and the DWP will also be guided by the Commission's new EIA guidance which will be published shortly on our website.

We would also encourage other public authorities, particularly executive agencies within central government, to consider the findings and recommendations of this assessment in light of their own arrangements for promoting equality and meeting the duties.

Recommendations

Jobcentre Plus should:

- Ensure that its governance requirements include more specific and verifiable evidence in relation to meeting the duties. Where possible assurances should focus on outcomes rather than just outputs.
- Ensure that its training for staff on DIAs addresses the recommendations and observations in this report.
- Ensure staff carrying out DIAs understand that meeting the duties will sometimes require DWP/Jobcentre Plus to go beyond mere equal treatment, for example by taking into account the needs of particular groups or individuals and considering lawful positive action measures to further equality outcomes.
- Ensure that it responds to the findings of the major review of its equality evidence base.
- Ensure that DIAs are reviewed when they say they will be.
- Ensure there is consistency between schemes, Diversity Challenge (DC) and DIA toolkit.
- Introduce a DC framework for employment functions.
- Revise its DC to include references to the duties' Codes of Practice and other Commission guidance.

- Revise the DIA toolkit and guidance to ensure:
 - Clearer definitions of the full range of general duties.
 - Greater clarity of responsibilities of staff at all levels particularly those carrying out DIAs, consultation and involvement, monitoring/gathering and using data.
 - A more seamless integration between DIA work carried out by DWP and Jobcentre Plus at all levels, so that work done at each level (be it at national, regional or district) adds value to the work already completed and avoids duplication of effort and paperwork.
 - Jobcentre Plus builds on DWP DIAs where possible rather than produce brand new documentation unless Jobcentre Plus has developed or initiated the policy itself. For example, it may be more effective for Jobcentre Plus to provide operational input into DIAs that are carried out by DWP during the policy development stage and continue to do so throughout the life of the policy rather than for Jobcentre Plus to commence its own, standalone DIA when it comes to Jobcentre Plus having to implement the policy at a later date.
 - The screening process is less cumbersome and simply focuses on ‘relevance’ to each element of the general duties as the basis for determining whether a DIA is required. DIAs that focus on impact and whether a policy demonstrates that the Department is meeting all aspects of the duties will then become more routine.
 - Where the DWP has screened a policy as relevant to race, disability and/or gender equality, Jobcentre Plus will not need to screen it again when it comes to implementation. Jobcentre Plus may still need to screen policies that they themselves have initiated, where relevance is uncertain, and carry out DIAs on those that are relevant.
- Jobcentre Plus’ DIAs include consultation and involvement with groups likely to be affected by the policy being assessed, unless Jobcentre Plus can demonstrate that it is aware of the views of such people through some other means, such as relevant consultation or involvement carried out by other parts of the Department, and deal with these in a transparent manner.
- That its DIA template is aligned as much as possible with the DWP’s template for greater consistency.
- The checklist covers more than just positive and negative impact.
- It is clear that it applies to proposed as well as existing policies.
- There is better integration with the DC.
- DIAs include timetabled action plans with clear lines of responsibility that include such things as:
 - > Any further monitoring/data gathering/consultation and involvement that may be required in relation to particular issues, who is responsible for this and how the results of these actions will be fed into the policy development/implementation process.
 - > Whether any modifications ought to be made to a policy such as specific requirements added to third party contracts or partnership agreements.
 - > When the DIA and action plan is to be reviewed.

Appendix A

Terms of Reference

1. To assess the extent to which the Department for Work and Pensions (DWP), through its executive agency, Jobcentre Plus, has complied with the Race, Disability and Gender Equality Duties in the development and implementation of its policies and practices, particularly, although not exclusively in relation to:
 - a) The centralisation of its benefit processing function
 - b) The reform of services for incapacity benefit customers, including the introduction of Pathways to Work and the Employment and Support Allowance
 - c) The implementation of:
 - Local Employment Partnerships, and
 - New services for lone parents.
2. To assess Jobcentre Plus' arrangements for:
 - a) Assessing and consulting on the likely impact of its proposed policies on the promotion of race equality
 - b) Monitoring its policies for any adverse impact on the promotion of race equality, and
 - c) Publishing the results of such assessments and consultation.
3. To assess Jobcentre Plus' methods for assessing the impact of its policies and practices, or the likely impact of its proposed policies and practices, on equality for disabled persons.
4. To assess the actions that Jobcentre Plus has taken or proposes to take to assess the impact of its policies and practices, or the likely impact of its proposed policies and practices, on equality between men and women.
5. To assess Jobcentre Plus' guidance for staff to carry out the assessments, consultation and monitoring referred to above including, but not limited to, any impact assessment tools, training materials, assessment templates, publications strategy and senior management sign-off methods.
6. To identify through these various assessments examples of good practice which can be disseminated within Jobcentre Plus and DWP, and potentially used by the Commission more widely.
7. To the extent that the Commission finds that Jobcentre Plus has failed to meet any of the public sector duties, to identify the reasons for such failure, consider whether there is action already planned to address the shortcomings, and, if not, or if the Commission thinks that any planned actions are inadequate, consider what more needs to be done.
8. To publish a report of the findings of the assessment including any necessary recommendations for further action.

The Terms of Reference were informed by the following aims:

- Be current – focus on impact assessment and monitoring of recent policy changes
- Cover the three duties – the policies listed cover areas of significant relevance to each duty, but also have cross-relevance to the other duties
- Include a national and regional dimension – look at impact assessment and monitoring at different levels
- Cover a mix of externally and internally facing policies, and
- Allow for scrutiny of the kinds of issues raised by the original complaints.

Appendix B

The duties are made up of a number of **general duties** and **specific duties**. The specific duties are designed to help public authorities to meet the general duties and are therefore a means to an end rather than an end in themselves.

The general duties

Public authorities subject to the general duties must have ‘**due regard to the need to**’ do a number of things. These are for each of the duties:

Race Equality Duty

- Eliminate unlawful racial discrimination, and
- Promote equality of opportunity and good relations between people of different racial groups.

Disability Equality Duty

- Promote equality of opportunity between disabled persons and other persons
- Eliminate discrimination that is unlawful under the DDA
- Eliminate harassment of disabled persons that is related to their disabilities
- Promote positive attitudes towards disabled persons
- Encourage participation by disabled persons in public life, and
- Take steps to take account of disabled person’s disabilities, even where that involves treating disabled persons more favourably than other persons.

Gender Equality Duty

- To eliminate unlawful discrimination and harassment (including transsexual men and women); and
- To promote equality of opportunity between men and women.

The specific duties

The specific duties, set out under secondary legislation, are as follows:

Race

Publish a Race Equality Scheme which identifies all functions/policies that are relevant to race equality and detail its arrangements for:

- Assessing and consulting on the likely impact of proposed policies on the promotion of race equality (‘race equality impact assessment’).
- Monitoring policies for any adverse impact on the promotion of race equality.
- Publishing the results of the impact assessments, consultation and monitoring.
- Ensuring the public have access to information and services.
- Train staff on both the general and specific duties.

Public bodies must also review their list of relevant functions/policies in their Race Equality Scheme every three years.

Disability

Publish a Disability Equality Scheme that includes:

- Involvement of disabled people in the development of the Scheme and details of the ways they have been involved.
- Methods for impact assessment and actions it will take to meet the general duty (the action plan).
- Arrangements for gathering and using information on the effect of its policies and practices on disabled people, in particular to review the effectiveness of the action plan and in preparing subsequent Schemes.

Within three years of the Scheme being published, take the steps set out within the action plan (unless it is unreasonable or impracticable to do so).

Report annually.

Review and revise the Scheme every three years.

Gender

Publish a Gender Equality Scheme and action plan, incorporating objectives, which includes:

- Collecting and using information to meet the duties.
- Using the information to review the effectiveness of its implementation of the duty and to prepare subsequent Schemes.
- Information on how the public authority will gender impact assess existing and new policies and practices.
- Consider the need to take action on all the causes of the gender pay gap.
- Consulting relevant employees, service users and others (including trades unions).
- Indicating how the objectives will be achieved.

Report annually.

Review their Scheme at least every three years.

Endnotes

- ¹ Full terms of reference are set out in Appendix A.
- ² The policy areas covered by the assessment apply across Great Britain, however, some parts of the assessment focus more specifically on particular regions or countries.
- ³ Note that the various Statutory Codes of Practice in relation to each of the duties remain in force – these can be found on the Commission’s website at: www.equalityhumanrights.com.
- ⁴ A two-year initiative aimed at reducing the ethnic minority employment gap, which ended in March 2006.
- ⁵ The Commission requested this information in October 2007.
- ⁶ Screening policies for relevance to race, disability and gender equality can help an authority to know how much weight to give to promoting equality in relation to each policy and whether or not a full EIA will be necessary. Screening should not however be seen as a substitute for a full EIA as most policies will have the potential to affect different groups in different ways.
- ⁷ From December 2006 and April 2007 respectively.
- ⁸ The DWP’s Disability and Gender Equality Schemes and Race Equality Scheme Progress Report.
- ⁹ Only the RED was in effect at the time the decision to centralise was made and in the early implementation stages.
- ¹⁰ Benefits processed include income support, incapacity benefit, jobseeker’s allowance and social fund.
- ¹¹ The Department’s telephone interpreting services are now provided by thebigword.
- ¹² ‘Vision for London’ – brief feedback was listed in an appendix.
- ¹³ An impact assessment is an analysis of the likely impact of a range of possible options for implementing a policy change – see Cabinet Office guidance at: http://www.cabinetoffice.gov.uk/secretariats/economic_and_domestic/legislative_programme/guide_html/impact_assessment.aspx
- ¹⁴ With the exception of the extension of work trials, which was rolled out in July 2008.
- ¹⁵ White, Mixed, Asian or Asian British, Black or Black British, Chinese or other ethnic group.
- ¹⁶ *Coleman v Attridge Law and Steve Law* Case C-303/06, Advocate General’s opinion of 31st January 2008 and ECJ decision of 17th July 2008, reported at [2008] ICR 1128 and at [2008] IRLR 722.
- ¹⁷ Options and Choices Events: testing implementation and delivery in trailblazer districts, September 2008.
- ¹⁸ The internal guidance recommends that events are arranged during school hours, outside school holidays, and in the morning; and that, where there is a need, events are held in languages other than English.
- ¹⁹ Again, this exercise was more than simply an assessment of relevance, but concluded that a full DIA was not necessary.
- ²⁰ The first phase of Options and Choices events only ended in December 2008 so commissioning of DWP detailed analysis/evaluation is scheduled for Q4.
- ²¹ They replaced the Race Equality Scheme Challenge.

²² It does not deal with Jobcentre Plus' responsibilities as an employer.

²³ See TORs 2(a) and (b), 3 and 4.

²⁴ See Appendix B [basically 'monitor' impact (RED) vs 'assess' impact (GED and DED)].

²⁵ The DIA toolkit replaced the RIA toolkit.

²⁶ Annex 2 of the Schemes.

²⁷ The review spans policy developments and HR functions, ethnicity, age, gender and disability.

²⁸ This is required by Article 2(2)(b)(i) of the Race Relations Act 1976 (Statutory Duties) Order 2001. To ensure that no group is facing discrimination or disadvantage from a proposed policy and to ensure that an authority is not missing an opportunity to do more to promote equality, consultation is also recommended for significant policies affecting men, women and transgender people. Involvement of disabled people is recommended for significant policies relevant to disability.

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