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Work Experience Programmes in Great Britain

1 Introduction

This paper discusses the work experience programmes as they operate in Great Britain and the implications of the recent court judgement on the Sector Based Work Academies.

2 Work Experience Programmes in GB

There are a number of Work Experience Programmes currently in operation in Great Britain. The majority of these were established as part of the overall welfare reform strategy under the umbrella programme “Get Britain Working” developed by the Department for Work and Pensions.

The relevant programmes are:

- Work Together;
- Work Experience; and
- Sector-based work academies.

3 Work Together

As stated on the DWP website:¹

Work Together is a Great Britain wide initiative that aims to encourage unemployed people to consider volunteering as a way of improving their employment prospects while they are looking for work.

The programme began in October 2010 and is run by Jobcentre Plus. Individuals who are interested in volunteering will be provided with further information including:²

- Signposting to local organisations that have agreed to support unemployed people;
- On-line support; and
- Information on specific opportunities.

There is no centralised guidance on the operation of the programme. Rather it is left to local Jobcentres to deliver the programme as best suits local conditions and services.

Please note, no statistics are available on the uptake of this programme as:

The Department will not be publishing any statistics on Work Clubs, Work Together and Enterprise Clubs because these are locally driven initiatives that will evolve over time, therefore the Department does not have robust data collection systems for people participating in these initiatives.

As a result there is no available data on the up take or effectiveness of the programme.

4 The Work Experience Programme (WEP)

The WEP began in January 2011.

The aims of Work Experience are to:³

- Help maximise the number of young people moving into employment;
- Help maximise the off flow of young people before entering the Work Programme; and
- Provide young people with quality work experience.

The main target recipients of the programme are young people claiming Jobseeker's Allowance. As stated by DWP:⁴

The programme provides the opportunity to gain an insight into the world of work and to develop skills and experience with local employers in a 'live' environment.

¹ DWP, Get Britain Working, <http://www.dwp.gov.uk/policy/welfare-reform/get-britain-working/>

² DWP, Get Britain Working, Work Together

³ DWP, January 2011, Work Experience Equality Impact Assessment, <http://www.dwp.gov.uk/docs/eia-work-experience.pdf>

⁴ Department for Work and Pensions, April 2012, Early Impacts of the Work Experience Programme,

The main features of the WEP are listed below:⁵

- Work Experience is for 16-24 year old JSA claimants in Great Britain, and participation is voluntary;
- Work experience is available to 16-17 year olds from day one of their JSA claim and for 18-24 year olds from thirteen weeks;
- Placements generally last two to eight weeks. The duration will be determined by looking at the needs of the participant alongside those of the industry;⁶
- Travel, childcare costs and reasonable adjustment costs are paid if required;
- Jobcentre Plus District Managers have overall ownership and accountability for the delivery of WEP; and
- JSA can be stopped due to gross misconduct.⁷

In regards the distinction between voluntary and mandatory attendance, the guidance states that:⁸

The decision as to whether to accept a place on the WE programme has always been entirely voluntary. However, prior to 29 February 2012, except for 16/17 year olds, participation became mandatory once the claimant made a decision to participate and was formally referred.

It goes on to state that claimants are required to attend day one of the placement. They may then leave if they chose to do so during the first week. However, after the end of week one, participation becomes mandatory.

Initially, sanctions could subsequently be applied if the claimant cannot show good cause for:

- Failing to attend;
- Giving up a place on the programme; or
- A participant was dismissed by the host employer for misconduct.

However, following a consultation with employers DWP removed all sanctions except in the case of gross misconduct.

The table below details participation on the WEP for 2011.

⁵ Department for Work and Pensions, 12 June 2012, Mandatory work activity scheme extended <http://www.dwp.gov.uk/newsroom/press-releases/2012/jun-2012/dwp061-12.shtml>

⁶ DWP, January 2011, Work Experience Equality Impact Assessment, <http://www.dwp.gov.uk/docs/eia-work-experience.pdf>

⁷ Gross misconduct is not defined in legislation but suggests misconduct that is 'blatantly wrong' or 'unacceptable'. It is conduct that is so serious that only one instance of such behaviour will warrant the employer's immediate termination of the work experience. JSA, Work Experience and Gross Misconduct <http://www.dwp.gov.uk/docs/m-28-12.pdf>

⁸ Ibid

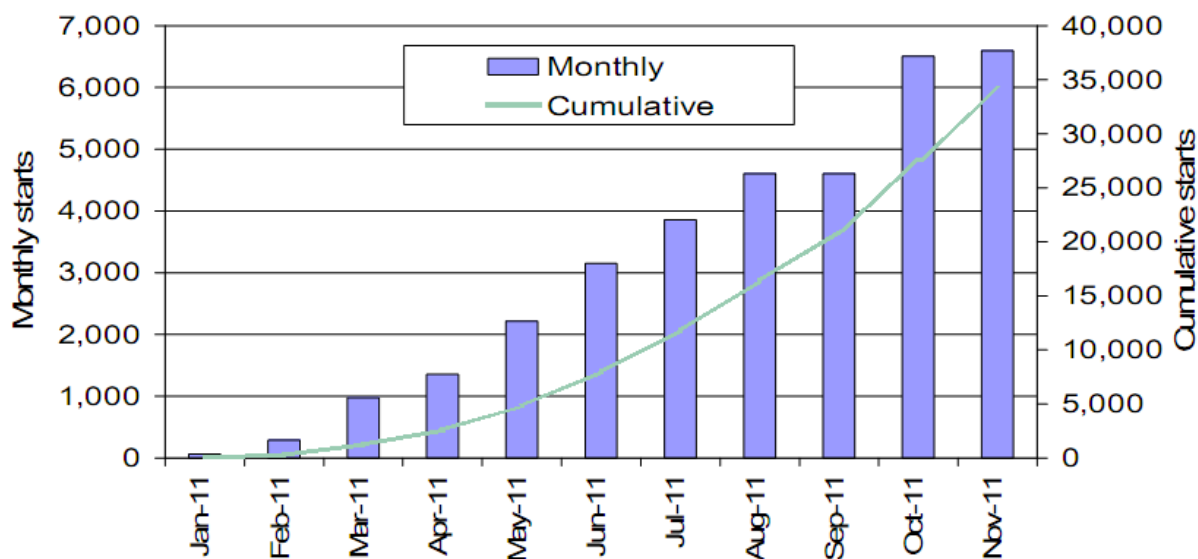


Figure 1: Monthly and Cumulative starts on WEP (2011)⁹

5 Sector Based Work Academies

Sector-based work academies were introduced from 1 August 2011 in England and from 30 January 2012 in Scotland. The programme does not operate in Wales. They offer pre-employment training, work experience placements and a guaranteed job interview for recipients of Jobseeker's Allowance or Employment and Support Allowance (Work-Related Activity Group), in sectors with high volumes of current local vacancies.¹⁰

A sector-based work academy can last up to six weeks and has three key components:¹¹

- Pre-employment training: The training is fully funded through the Skills Funding Agency and delivered by Further Education colleges and training providers. The training will enable participants to undertake units on the Qualifications and Credit Framework;
- A work experience placement: enables participants to develop their skills and have the opportunity to work in a real environment. The length of a work experience placement is determined at the initial discussion between the employer and Jobcentre Plus; and
- A guaranteed job interview: A guaranteed job interview will provide participants with valuable interview experience

⁹ Ibid

¹⁰ DWP, Get Britain Working Measures Official Statistics, http://statistics.dwp.gov.uk/asd/asd1/pwp/pwp_gbw_feb13.pdf

¹¹ DWP, May 2012, Sector based work academies, <http://www.dwp.gov.uk/docs/sbwa-employer-guide.pdf>

Participants will remain on benefit throughout the period of the sector-based work academy and Jobcentre Plus will pay any travel and childcare costs whilst they are on the work experience placement. There is no direct cost to an employer for sector-based work academies as the costs are covered by government funding.

Table 2: Take up of Sector-based work academy¹²

Date	No of Participants
Aug-11	410
Sep-11	800
Oct-11	1,300
Nov-11	1,120
Dec-11	460
Jan-12	1,490
Feb-12	2,010
Mar-12	2,100
Apr-12	2,620
May-12	3,040
Jun-12	2,740
Jul-12	4,000
Aug-12	3,400
Sep-12	3,610
Oct-12	4,050
Nov-12	3,640
Total	36,770

Please note, across GB in November 2012 there were 1,569,200 people on JSA and 1,134,290 people claiming ESA in May 2012.¹³

6 Impact of Recent Court Judgement

In 2012, a graduate, Cait Reilly and James Wilson, an unemployed Heavy Goods Vehicle (HGV) driver, took the government to court on the grounds that they were forced to undertake unpaid work or risk losing benefits.

Miss Reilly had been volunteering at a museum whilst on JSA. She attended a Sector Based Work Academy open day and was subsequently told she was suitable for six weeks training under the scheme. After expressing concern regarding being unable to continue her voluntary work at the museum (in work she was interested in pursuing a

¹² DWP, Get Britain Working Measures Official Statistics, http://statistics.dwp.gov.uk/asd/asd1/pwp/pwp_gbw_feb13.pdf

¹³ ONS, Jobseekers Allowance, <http://www.ons.gov.uk/ons/taxonomy/index.html?nscl=Jobseeker's+Allowance> and ONS/DWP Quarterly statistical summary, February 2013

career), Miss Reilly was told that participation was mandatory and that she could lose her JSA payments if she did not take part.¹⁴

Under the scheme, Miss Reilly was required to work for five hours a day for five days a week, receiving no training and undertaking manual work in Poundland, rather than training in retail as she had been informed.

Mr Wilson worked as a HGV driver for fourteen years but was laid off in 2008. In November 2011, Mr Wilson was required to take part in the Community Action Programme (CAP), a trial scheme for the long term unemployed. Under the scheme he was expected to receive up to six months work experience. Participants only received JSA during this period. Mr Wilson was informed that if he refused to participate he would lose his JSA.¹⁵

Mr Wilson was informed he would be required to work for 30 hours a week for twenty-six weeks or until he found employment. Mr Wilson contended that the work experience would do him no benefit (it involved cleaning furniture).

Miss Reilly and Mr Wilson subsequently went to court, arguing that the schemes were unlawful via a breach of Article four of the European Convention on Human Rights, which prohibits forced labour and slavery. Miss Reilly and Mr Wilson also contended that the regulations under which the back to work schemes operated were unlawful.

When brought to court in August 2012, the sitting Judge, Justice Foskett, ruled that the back to work scheme was lawful under the relevant article. However, Justice Foskett did criticise the Department for Work and Pensions on a number of points, including breaches of the 2011 Jobseeker's Regulations, such as a lack of clarity in the letters that warn claimants of a potential loss of benefits if they fail to participate in the work schemes.¹⁶

In February 2013, Miss Reilly and Mr Wilson appealed the ruling regarding the regulations and were successful. The Court ruled that the regulations under which the schemes operated were unlawful. As such the Jobseeker's Regulations 2011 were quashed.¹⁷

In a discussion of the findings, David Renton¹⁸ stated that:¹⁹

The [Welfare Reform Act] 2009 empowers the Secretary of State to make Regulations to implement back-to-work schemes. The WRA 2009 is silent about key details of how back-to-work schemes are to operate, but

¹⁴ Court of Appeal, Civil Division, 12 February 2013, R (on the application of Reilly and another) v Secretary of State for Work and Pensions

¹⁵ Court of Appeal, Civil Division, 12 February 2013, R (on the application of Reilly and another) v Secretary of State for Work and Pensions

¹⁶ The Guardian, <http://www.guardian.co.uk/law/2012/aug/06/unpaid-work-scheme-ruled-lawful-poundland>

¹⁷ Court of Appeal, Civil Division, 12 February 2013, R (on the application of Reilly and another) v Secretary of State for Work and Pensions

¹⁸ A Barrister at Garden Court Chambers writing on behalf of LNB News

¹⁹ LNB News, 20 February 2013, Back to the drawing board for back-to-work schemes?

provides that the regulations will set out notice requirements, the circumstances under which benefits could be stopped, and the circumstances under which a refusal to work on a back-to-work scheme or to accept a back-to-work placement would be lawful.

The Regulations [Jobseeker's Regulations 2011] add no detail to the WRA 2009, rather they give the Secretary of State an almost unlimited discretion to decide under any Scheme what should be contained in a notice or when a sanction should apply etc.

The Court therefore found the Regulations were unlawful.

As a result any claimants who have had their Jobseeker's Allowance withdrawn for non-compliance with a back-to-work scheme could be entitled to reclaim their benefits.²⁰ In addition, the ruling could prevent the government continuing with the programme in its current form.²¹

The Department for Work and Pensions introduced new regulations to allow it to require jobseekers to take part in such schemes. The government is also seeking permission to appeal to the Supreme Court.²²

²⁰ Ibid

²¹ BBC News, 12 February 2013, Back-to work scheme breached laws, says Court of Appeal
<http://www.bbc.co.uk/news/business-21426928>

²² Ibid