## THIRD SECTOR EMPLOYABILITY FORUM
Tuesday 15 March 2011
Scottish Government, Atlantic Quay, Glasgow

**Present:**

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<td>Susan Boath</td>
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<td>John Brady</td>
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<td>Alistair Cameron</td>
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<td>David Cameron</td>
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<td>Morag Cassidy</td>
<td>GMN/SMN</td>
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<td>George Clark</td>
<td>Career Transition Partnership</td>
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<td>The Lennox Partnership</td>
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<td>Joe Fulton</td>
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<td>Sheila Fyfe</td>
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<td>James Gilfillan</td>
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<td>Eddie Gorman</td>
<td>The Richmond Fellowship</td>
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<td>Heather Hall</td>
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<td>Karen Herbert</td>
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<td>John Hilton</td>
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<td>Tracy Hughes</td>
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<td>Amy Hutton</td>
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<td>Ian Lees</td>
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<td>Kevin Mallon</td>
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<td>Jane McTaggart</td>
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<td>Fraser Millar</td>
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<td>Susan Millar</td>
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<td>Pauline Norrie</td>
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<td>Keith White</td>
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1. Working with the Voluntary Sector

Supply Chain Commissioning Issues

Tracy Hughes from DWP gave a presentation on the DWP’s strategy for ensuring that the voluntary sector is engaged in the delivery of DWP employability programmes. These programmes are currently worth £1 billion and currently approximately one third of providers are third sector organisations and DWP would like to build on this as they recognise the sector is good at supporting people with a range of barriers.

Tracy outlined the measures the Government has taken to ensure they don’t lose the expertise of the sector particularly smaller organisations. The DWP Commissioning Strategy and Code of Conduct were published in 2008 and has introduced a number of changes in the way they deliver procurement, including the requirement for Prime Contractors to include a “letter of intent” from each sub-contractor confirming that the sub-contractor is content with the arrangement they have reached with the prime; a strong focus in evaluation criteria on the prime’s ability to effectively manage and nurture supply chains; support for the development of consortia and Special Purpose Vehicles;
introduction of specific terms which primes must apply to their sub-contractors; and the new Merlin Standard.

The Work Programme is an important step in the Government’s Welfare Reform Plans and they want to build on their good track record in working with the voluntary sector to help make it a success. DWP has made it clear to potential primes that they are expected to engage with a wide range of delivery organisations including the voluntary and community sector and has supported the delivery of many local events where primes and sub-contractors can meet. DWP will shortly be implementing a Voluntary Sector “Sounding Board” to help them learn lessons from the running of the Work Programme once it goes live.

Merlin Standard

Paul Maude from the DWP gave a presentation on the Merlin Standard. The Merlin Standard arose from the DWP Commissioning Strategy and Code of Conduct. It will initially apply to the Welfare to Work sector but DWP hope it can be rolled out across a range of public sector contracts. The Work Programme is a black box and its offering will vary according to the needs of localities, meaning there will be no common standard. Merlin will ensure fair treatment for partners and sub-contractors from primes in these circumstances.

The aims of the Merlin Standard are to: recognise and support sustainable excellence in supply chains; promote positive partnership working; ensure fair treatment throughout supply chains; and build robust and healthy supply chains. It is designed to assess at 3 levels

1. **Prime:** confirming compliance with Code of Conduct, identifying best practice and providing feedback on Commissioning activity
2. **Supply Chain Partners:** confirming behaviour of primes against the Code of Conduct, identifying and confirming best practice and identifying any Commissioning activity that affects supply chain behaviour
3. **Commissioning:** identifying impacts on supply chain behaviour resulting from contract design and procurement behaviour

A pilot of the Merlin Standard has been running with Flexible New Deal since October 2009 and will be used with Work Choices. This will inform the design and progression of the Merlin Standard model. Procurement for an independent Accreditation Service will begin shortly and will start with all Prime Contractors of the Work Programme. Compliance with Merlin is tested against 4 principles – Supply Chain Design; Commitment; Conduct; Review. Providers will be required to meet the Merlin Standard. The assessment process was explained. Results of assessments will be in the public domain.
A mediation service is being developed as part of the process for handling disputes. It will be an independent service positioned to mediate in cases that have failed dispute resolution. This service will become available in summer 2011. Merlin will be co-regulated by Government and the Welfare to Work industry through a representative board which will be set up this autumn. There will be the opportunity for different sized providers to participate.

Questions & Answers

Q: When the Work Programme Primes are announced, will DWP publish the percentage of third sector involvement?
A: It will be published. DWP expects it will be at least one third but they are hoping for higher.

Q: How long will accreditation last?
A: Three years. If a Prime fails accreditation they have 3 months to re-apply. If they fail again DWP will be able to take action. They want Merlin to have real teeth.
Q: Will the results of the Merlin Pilot be published?
A: Yes but anonymously. There will be a summary report on the website. Once the Work Programme starts the full results will be published.

Q: Merlin’s primary focus will be supply chain management, how does it relate to Momenta?
A: There is still a need for the checks that Momenta provides. Merlin will become the single standard and Momenta will probably be discontinued. There is still a need for what it does although future commissioning will be through the Framework and all Framework providers are Momenta accredited. Where there are local needs (small local contracts not through the Framework) there may be anomalies. Paul/Tracy will take this question away and check.

Q: Will there be sanctions if an organisation fails its Merlin accreditation? E.G. loss of contract?
A: It could be but each individual case would have to be looked at.

Q: The web portal – is it the primary means of getting information on Primes, what else is on there?
A: The web portal will also have a “social networking” function allowing organisations to sell/promote their services and it will have case studies and examples of good practice.

Q: Will every contract through the Framework be flagged up through Merlin?
A: It won’t replace the DWP Suppliers website in announcing procurement opportunities but approaches to Primes will be through Merlin. Only Framework Providers will be able to bid for procurement opportunities.

Q: Mandatory Work Activity tender was almost invisible and appeared 2 weeks after Work Programme tenders went in.  
A: This needed a very quick turnaround – hopefully this will not happen again.

Q: Will there be a link to Public Contracts Scotland for future procurement?  
A: They will check this.

Q: Will the Framework be for more than the Work Programme?  
A: Yes it was made clear from the start that all DWP contracts will be let through the Framework with the only exception being small local contracts.

Action: Jim O’Rorke to circulate electronic copies of Tracy and Paul’s presentations.  
Action: Tracy and Paul to take away 2 questions and reply to Jim
1. Will Momenta type accreditation be required for suppliers in situation where small local contracts, out with the Framework, are being let?  
2. Will there be a link between Merlin or DWP Suppliers website and Public Contracts Scotland?

2. Community Benefit Clauses – an overview

Fraser Millar from Forth Sector gave a presentation on Community Benefit and Article 19 Clauses and their use in delivering social benefit. Fraser explained that Community Benefit Clauses are contractual requirements on suppliers to ensure that Public Sector contracts deliver social benefit. The major development work around CB clauses has often been in relation to targeted training or employment outcomes with the aim of supporting socially excluded or long term unemployed people to move into permanent employment. The Scottish Government has supported the use of CB clauses and feels that in economically challenging times it is important that to get the maximum possible benefit for communities from public spending.

CB clauses can also be used to deliver a range of other benefits, including:

- Equal Opportunities
- Training for the existing workforce
- Supply chain initiatives
- Community Consultation
- Contributions to education
- Promotion of social enterprises
- Resources for community initiatives

CB clauses must not contravene EU procurement rules, directives and general EU laws, so a public body must have a legal and policy basis for incorporating community benefit requirements into their commissioning or procurement processes. They must ensure that the community benefits they seek fit with their strategic objectives, that they form part of the “core purpose”
of the contract, and their use still represents value for money/best value for
the public body.

CBs can be important for employability focused organisations as the
development around these clauses has often been in training and
employment outcomes. CB clauses also offer third sector employability
organisations to become involved in the delivery of public sector contracts,
either as the prime contractor or as part of the supply chain and this is
particularly relevant for large scale contracts such as construction. CB clauses
can help to level the playing field for third sector organisations when bidding
against private sector companies as they take into account the “social value”
delivered by the contract.

The Scottish Government is supporting the delivery of social benefit in public
sector procurement through two initiatives:

- Opening up Public Sector Contracts which aims to ensure CB clauses
  are routinely used, where appropriate, in public procurement, that social
  and economic impact value measures are appropriately applied when
designing measures and that those leading procurement/commissioning in the public sector are more confident in
understanding and working with third sector suppliers.

- Business Support Contract - this is projected to start in May 2011 and
  aims to have more third sector organisations winning more contracts,
  including with the public sector, and that the third sector is able to
  respond to the opportunities presented by the use of CB clauses.

Article 19 is another example of a social clause. It formed part of the Scottish
Government’s “Scottish Sustainable Procurement Action Plan”. The aim of
Article 19 is to have at least one contract reserved for a supported business or
factory – i.e an organisation that has more than 50% disabled employees (not
just in the UK), which effectively allows a public body to reserve contracts for
established social firms. The Scottish Government was keen to see all public
agencies to offer at least one contract under Article 19 by November 2010,
however this has not happened to date.

CB clause and Article 19 have been underused so far in spite of the clear
strategic direction from the Scottish Government. Specific resources are being
targeted to ensure the use of these clauses becomes mainstream and over it
is likely that more contracts that include CB clause and Article 19 will emerge
in the future. The third sector needs to prepare itself to respond to the
opportunities that are presented.
Questions & Answers

Q: Has CoSLA taken a position on CB clauses?
A: Not sure about CoSLA but the Scottish Government definitely has and people are ignoring them.

Q: Apart from Housing Associations are other third sector bodies using it?
A: Housing Associations are also public bodies as well as third sector and they have a huge procurement function. Non-public bodies don’t have to follow CB or Article 19 clauses.

Q: Have Scottish Government reserved any public contracts under Article 19?
A: Just the Scottish Prison Service one.

Q: What kind of sanctions can be applied to ensure use of CB clauses?
A: Legally contracts can be withdrawn but in reality a softly, softly approach has been taken.

Q: CB clauses have mainly been used in construction contracts and the main contractor may sign up to CB clauses but the industry mainly uses sub-contractors, how can it be enforced throughout the supply chain?
A: It comes down to the resolve of the supply chain to make sure it happens. Part of the issue is the narrow definition of community benefit in procurement teams. There needs to be a dialogue about wider community benefits. Local authority procurement officers are nervous of it, there is a need for training for procurement officers.

Action: Jim O’Rorke to circulate presentation and further reading list

3. Community Jobs Scotland

Donna Mackinnon from SCVO gave a briefing on the Community Jobs Scotland initiative. The £10 million initiative was announced on 17 February following the Scottish budget. It will be a partnership between the Scottish Government, SCVO and the Scottish Social Enterprise Coalition (SSEC). 2,000 opportunities for 16-24 year olds will be created in 2011/12. The high level principles have been agreed and the Scottish Government is currently considering a joint proposal from SCVO and the SSEC.

The initiative recognises the highest ever recorded levels of youth unemployment as well as the success of Future Jobs Fund and the role the third sector played in delivering it. The increasing pressure on the sector due to rising demand for its services whilst experiencing funding cuts was also recognised. SCVO and other third sector organisations have been lobbying the Scottish Government to introduce a similar initiative to FJF. Community Jobs Scotland will be open to 16 and 17 year olds as well as 18-24. Some people aged 25+ in areas where unemployment amongst that group is highest will also be eligible.
To be eligible people will have to have been unemployed between 6 and 12 months. It may be possible to get early entry if an individual meets the Jobcentre Plus criteria for this. Opportunities will be available in all 32 local authority areas which it is proposed are broken down according to levels of youth unemployment. All opportunities will be with third sector organisations – in voluntary organisations, charities and social enterprises. The opportunities must deliver recognisable community benefit and be fully additional. They will last for 6 months and employers will be encouraged to retain the young person if possible. It has been proposed that opportunities for 16/17 year olds last for 9 months.

All opportunities must be for at least 25 hours per week and paid at the minimum wage or more. There will be £6,500 available for each opportunity. A management fee of 5% has been agreed with Scottish Government leaving an allocation per opportunity of up to £6175. There will also be additional ESF support available in the LUPS area and an application can be submitted to HIPP. All young people must be employed by the organisation and offer the same terms and conditions as other employees. Referrals for those aged over 18 will come from Jobcentre Plus. 16/17 year olds will probably be referred through Skills Development Scotland. If any Forum members work with that age group they have views they should let us know.

It is hoped that there will be Ministerial sign off for Community Jobs Scotland before Purdah starts. Once that happens it is hoped that the programme can start in May if Scottish Government agree, otherwise the start date will be in August.

There will be 5 criteria for opportunities under Community Jobs Scotland:

- Opportunities must offer community benefit
- They must be additional, not displacing or replacing existing jobs
- They must be for 25 hours at least per week
- They must last for a minimum of 6 months
- There must be a focus on sustainability

To date SCVO has had interest from around 300 organisations. Once the details are known we will send out expression of interest forms. If organisations want to get in touch they should email communityjobsscotland@scvo.org.uk

Questions & Answers

Q: If there is £10 million available, does this assume that half the jobs will not complete?
A: There is £10 million for financial year 2011/12 and a commitment to fund the additional time required for people to complete their 6 months opportunity in the following year

Q: Can organisations apply directly for funds to provide opportunities?
A: No. The fund will be held by SCVO and the SSEC.
Q: If mentoring is to be part of the programme, how will it be delivered and who will deliver it? There are different ways and models can there be a discussion?
A: The Scottish Government is particularly keen but it hasn’t been worked out how this will be provided.

Q: Is there any way that people unemployed more than 6-12 months can be involved?
A: Scottish Government thinks the best use of the money is to target people unemployed between 6 and 12 months. People unemployed for more than 12 months will be eligible for the Work Programme.

Q: What will be the unemployment criteria for 16/17 year olds?
A: SDS Adviser probably determine eligibility in line with eligibility for other SDS programmes

Q: Social enterprises and social firms – are they included?
A: We will be using the widest possible definition of third sector.

Q: Would unincorporated associations be eligible?
A: Would depend on their capacity, ability to handle employment issues such as payroll.

Q: Need to be careful not to muddy the waters with Get Ready for Work for 16/17 year olds which is meant to help young people into unsubsidised work, would Activity Agreements be a better route?
A: SCVO keen to get feedback from organisations working with 16/17 year olds and from SDS as to the best routes into Community Jobs and support required for this age group.

Q: Could Community Jobs be linked to Modern Apprenticeships?
A: Yes that would be an excellent outcome?

Q: What will happen to Community Jobs Scotland is there is a change of government after the election? The Scottish Labour Party want a Scottish Future Jobs Fund with 10,000 jobs, would Community Jobs Scotland be put on one side if Labour get in?
A: We need to ensure a significant role for the sector whatever the election result - that is why we want to get the programme started in May.

4. TSE Forum Research Project, Ian Lees, SCVO

Ian Lees, SCVO presented the draft findings form the survey of Local Employability Partnership Lead Contacts which had been circulated to forum members prior to the meeting. This survey is part of a larger project being conducted by SCVO of behalf of the Forum which aims to determine the
quality and extent of third sector engagement in LEPs and to develop a web based resource designed to support third sector employability service provision.

The research found that there is extensive third sector representation on LEPs and significant representation on LEP sub-groups. Third sector representatives are generally invited to be on LEPs and a number of barriers to third sector involvement were identified, including capacity in smaller organisations and competition for places around the LEP table. Third sector organisations also participate in the work of LEPs in a number of ways including delivery of a range of services.

Ian also gave an update on the development of the interactive website component of the research project and the employability services survey which would inform and help populate the website. Ian will be compiling the employability services survey in the near future and circulating to the project steering group for their input.

5. Updates

As the meeting was now running behind time Jim drew attention to the manager’s report that had previously been circulated to Forum members. Jim reminded attendees that his secondment was coming to an end.

6. AOCB

Mike O’Donnell from the Scottish Government’s employability team thanked Jim on behalf of Scottish Government, SCVO and Forum members for his work in developing and embedding the Forum over the last 18 months. Due to Jim’s work with LEPs he felt there was a much clearer picture now of the third sector’s work in employability at a local level and where there were gaps in LEP’s knowledge had been identified. He highlighted the need to work within the Scottish Government at cross-departmental levels – Third Sector Division, Employability Team and Tackling Poverty Team. Mike told the meeting that he would take over the role of convening the Forum and would be seeking feedback from Forum members on what had worked best, what they valued most of the Forum’s activities and what they wanted going forward.