

**A CALL FOR
ACTION**

base
british association for
supported employment

A briefing paper on
Improving Specialist Disability
Employment Services





“Employment rates for people with significant disabilities remain stubbornly low with estimates that only 10% or so of people with learning disabilities or enduring mental health needs are employed, many on a part-time basis.”

Background

This briefing paper has been issued by BASE in response to issues surrounding the development by the Department for Work and Pensions (DWP) of a new specialist disability employment programme to replace Workstep, Work Preparation and the Job Introduction Scheme. The programme has a working title of IDEAS and is due to be introduced in October 2010 following a two stage tendering process that begins with the issue of pre-qualification questionnaires in March 2009. BASE is calling for the support of organisations to ensure that the new programme meets the needs of customers and employers.

The history behind Improving Specialist Disability Employment Services

Employment rates for people with significant disabilities remain stubbornly low with estimates that only 10% or so of people with learning disabilities or enduring mental health needs are employed, many on a part-time basis. The Department of Health/DWP working group report into learning disability and employment¹ and the report on Mental Health and Social Exclusion² both highlighted the need for concerted action to improve the availability of support services. A National Audit Office report³ proposed that DWP seek better value and outcomes from its specialist provision. More recently, Public Service Agreement 16 has focused the attention of local authorities on improving employment rates through the use of local area agreements.

The response of DWP has been to review specialist disability services⁴ and propose a new modular programme, IDEAS, which would provide targeted pre-employment activity and post-employment support for people with significant disabilities. The review began in early 2006 and BASE worked extensively with Dr Martin Hill who led the review on behalf of DWP. This collaboration included detailed discussions, many provider visits and presentation workshops at our conferences in 2006 and 2007. The report was subject to a formal consultation from December 2007 to March 2008 and over 450 responses were received. The consultation featured a number of events, including six that were co-hosted by BASE. Feedback was overwhelmingly in support of the proposed model as it was described in the consultation report. BASE submitted a detailed response⁵ that included 44 recommendations. A summary of responses⁶ was issued by DWP in November 2008.

DWP have formed a design team to take forward the design and procurement of the new programme. They have organised a series of events to inform providers, employers and customer representatives about their proposals before finalising a programme specification. DWP intends to tender for delivery using the default primary provider, supply chain framework contained in their Commissioning Strategy⁷.

They are proposing the following timescales:

- Issue of Pre-Qualification Questionnaires (PQQ) - 30 March 2009
- Return of PQQs - 18 May 2009
- Issue of Invitation to Tender (ITT) - 27 July 2009
- Return of ITTs - 26 October 2009
- Contract award - 26 April 2010
- Start of contracts - October 2010

¹ Improving Work Opportunities for People with a Learning Disability (DWP, 2006 – final draft 2004)

² Mental Health and Social Exclusion (Social Exclusion Unit, 2003)

³ Gaining and retaining a job: the Department for Work and Pensions' support for disabled people (National Audit Office, October 2005)

⁴ Improving Specialist Disability Employment Services (DWP, November 2007)

⁵ BASE consultation response http://www.base-uk.org/pubs/papers/ISDES_report.pdf

⁶ Summary of Responses: Improving Specialist Disability Employment Services (DWP, November 2008)

⁷ DWP Commissioning Strategy (DWP, February 2008)

Current consultation

BASE members met with DWP officials on 14 November 2008 and were told about the consultation events. We were relatively reassured to hear that DWP were prepared to tender for three contracts per region though they were open to the idea of discussing the possibility of four or five contracts.

At that point they envisaged:

- the work entry module lasting up to 12 months,
- transitional support being available for up to 24 months
- long term support being open ended, subject to approval and reviews
- protection for supported businesses lasting the full contract length
- regular ongoing dialogue with BASE on details of the design
- a working group to consider transition issues

DWP's events were advertised as consultation events. Base members report that they have found opportunities for discussion or questions have been very limited. DWP maintain that this is because the new programme is currently at a "high level" of design and that much of the framework is not negotiable. Members also report concerns that many of the questions posed at the events relate to areas already discussed in the formal consultation process. This has led to doubts about the effectiveness of the consultation process to date. BASE is very concerned to ensure that the last three years of collaborative working are not lost and that the current range of events are not seen to be a done deal or simply a tick box exercise.

After requests from BASE, DWP have stated that they will take comments by email⁸ as long as they are received by 19 December 2008.

The design of the IDEAS programme has now been moved to the contracting section of DWP which does not have the benefit of a detailed knowledge of the needs of Workstep customers or the process that has led to the current proposed model. This raises considerable concern regarding the potential for an inadvertent design flaw that disadvantages potential participants or providers by default.

⁸ specialist.disabilityprovision@dpw.gsi.gov.uk



DWP Proposals

DWP are consulting on a number of proposals⁹ at a series of provider events and are working with the Employers Forum on Disability to consult with employers and with the Care Services Improvement Partnership / Equality 2025 to consult with a sample of potential customers. BASE is gravely concerned about a number of proposals for the design and procurement of the new programme and feels that they do not take into account the needs of customers or employers.

Programme Design

Disability Employment Advisors will approve entry to the programme and monitor the progress of individual participants.

DEAs simply do not have the capacity to undertake these tasks adequately.

DWP is proposing the setting of maximum time periods on each of the programme modules.

This will hinder access by those customers who should be using the provision and is contrary to the personalised approach being widely advocated.

To date, there appears to have been little or no consultation with employers.

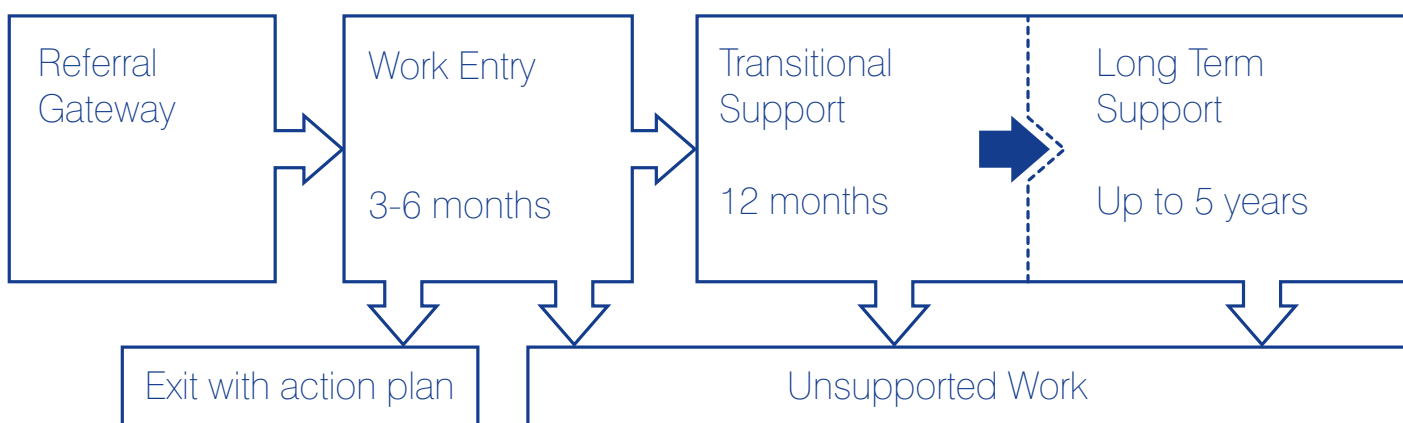
BASE believes that the proposals show little understanding of the needs of the target customers or of employers, particularly within the current economic climate.

No reference has been made as to the potential linkages with PSA16 activity or transitions from education.

The new programme is likely to miss an historic opportunity to create a coherent customer offer.

DWP are proposing a three stage programme that is accessed via a robust gateway with referral approved by the Disability Employment Advisor (DEA). They are considering how referrals from health and social care pathways might best be accommodated. There is general support for the DEA role but it is clear that the DEAs do not have the capacity, and in some cases expertise, to undertake any meaningful role in tracking individual progression.

DWP wish to ensure that the new programme focuses on those who most need support and that Flexible New Deal or Pathways to Work will take precedence wherever possible. It is unclear on what basis DEAs will be able to recommend the most appropriate programme for customers. BASE thinks that a 20 minute discussion with the customer will be inadequate for such a major decision. In practice, most DEAs seek advice from the provider as a matter of good practice.



There is widespread support for the three module framework but the imposition of such short time periods will lead to support organisations only working with those who require the least support to become employed in order to meet contract targets. BASE argues that a personalised approach would see far more flexibility to respond to individual needs and timescales.

DWP predicts that some customers will move directly from the work entry module to unsupported work. This does not appear consistent with the needs of the desired customer base. Those customers that leave the programme in module 1 will be supported to develop an action plan but it is very unclear where this might lead them.

⁹ DWP consultation proposals/questions http://www.base-uk.org/news/2008/IDEAS_DWPquestions.pdf

There seems to be an assumption that all participants will move on to unsupported work eventually. It has been proposed that long-term support is limited to five years and that this be made clear to employers at the outset. Our members experience indicates that employer engagement is much more successful when participant support is linked to the individual's need rather than a contractual requirement.

The use of these shortened time periods for the programme modules will inevitably mean that contracted agencies will focus their efforts on supporting those that they see as easiest to help. This is particularly compounded by pressure from prime providers to achieve improved outcomes within reduced resources. We are also concerned about how this might impact on rural communities such as the Scottish Highlands. Most people wishing to access the programme will face a significant journey to unsupported work and the conditions attached to the programme will mean that relatively few will be afforded that opportunity. This is not what the new programme was meant to be about.

Procurement

The timescales envisaged are unnecessarily tight.

This will stop dialogue on the most effective delivery methods and prevent the formation of special purpose vehicles to tender on a consortium basis.

This will lead to:

- a compromised delivery model
- the service migrating to individuals with less complex support needs
- a loss of specialist provision
- disinvestment by local authorities and charitable bodies.

The programme will be tendered to primary providers on a regional basis.

Bidders will state their programme outcome targets and a projected cost.

This will lead to cherry picking, the widespread loss of local expertise and a reduction in resources at the customer end. It will hinder the engagement of local health, education and social care routeways into the programme.

There will be no adjustments to the use of the Commissioning Strategy and the Code of Conduct¹⁰ will be used to govern the supply chain.

This will lead to:

- failures in the subcontractor market
- potential disinvestment from local authorities.
- limited competition at ITT stage

The transition to a new programme presents considerable challenges that still appear to be little understood.

This will cause unnecessary confusion and distress to customers as well as lead to a loss of service in the transition period.

Protection for supported businesses will be limited to two years.

This will lead to:

- the loss of thousands of jobs
- the closure of many, if not all supported businesses.
- disinvestment by local authorities and charitable bodies
- loss of current DWP investments in building premises and equipment, previously issued under the Factory Support Grant

¹⁰ DWP Commissioning Strategy – Annex 1 (DWP, February 2008)

A two stage tendering process will be used, in line with the DWP Commissioning Strategy, to identify prime providers to deliver the programme. BASE has long been opposed to the application of this strategy, without adjustment, to specialist services. We have called for “reasonable adjustments” to the procurement process but DWP wishes to streamline its contracting to make it easier to manage. The current 400+ contracts for Workstep and Work Preparation would be reduced to just 11 contracts though DWP is considering two contracts per region to offer customer choice. The implications of this on disabled customers have not been properly assessed and the impact needs assessment¹¹ contained in the Commissioning Strategy is woefully inadequate.

Despite previous indications from DWP that the Commissioning Strategy is just a framework that will allow flexibility, it is clear that they intend to use it as it stands. Contracts will be awarded on the basis of capability and price. Private companies stand to take a large management fee and recoup a profit margin before passing on resources to subcontractors. As no additional resources have been allocated, this will lead to a reduction in funding available at the customer end. BASE believes that it is likely that this approach will lead to market failure amongst subcontractors and that those that remain will have to cherry pick to work with the most able customers if they are to survive.

It is clear that DWP is seeking to transfer management responsibility onto prime providers whilst maintaining a skeleton contract management capability. The Code of Conduct, a document prepared by prime providers and currently under internal review, will govern the relationship between prime and subcontractors. BASE believes that in its current form this Code is unenforceable and does not represent adequate stewardship of the market. It is full of words like “should” and “expects” rather than “will” and “must”. We lack confidence that DWP, which has failed to address the issue of underperforming providers, will address concerns regarding the practice of a rogue prime provider. Further, the concentration of power in the hands of a single provider will make it practically impossible for the DWP to take back a contract from a prime provider because of the way it deals with its supply chain. The experience of Pathways to Work has shown the Code to be irrelevant as subcontractors withdraw their services in the wake of reduced service fees, unrealistic referrals and higher outcome targets.

DWP have stated their intention to support the formation of special purpose vehicles (SPV); jointly owned bodies with a legal status that could bid for

contracts. BASE has encouraged DWP to engage with the Local Government Association and COSLA to develop template contracts to make it easier to form SPVs but these discussions have not taken place. The current timescales seem designed to prevent SPVs from being formed in time for the tendering exercise. DWP have allowed three months for the Invitation to Tender stage but six months have been set aside for them to score the tenders. This appears disproportionate.

It is still not clear what protection will be afforded to supported businesses that currently employ 3,000 participants on the programme. It has been proposed that prime providers will be mandated to pass on £4,800 pa per participant for the first two years. The protection would then end. Most of these businesses are managed by local authorities and many are heavily subsidised already. As their geographical spread is not evenly distributed, it is likely that some regions will contain a dozen businesses. No prime provider will want to sustain that arrangement and BASE expects that many would lose their subcontracts altogether after two years. The loss of contracts and associated income will lead many authorities to close their supported businesses forcing the redundancy of thousands of disabled workers who currently have entitlement to local authority pension schemes. This is likely to cause a great deal of distress and anguish to those workers and may lead to local media storms and a national outcry led by the trade unions.

Those participants on the predecessor to Workstep, the Supported Employment Programme, had an exemption from the requirements for progression to unsupported work and a promise of lifetime in-work support. It is not clear how the new programme will affect them and DWP has not commented on this.

DWP have stated many times that they want to see the new programme supporting only the most disadvantaged in the labour market. They see Flexible New Deal and Pathways to Work as the most appropriate provision for the majority of jobseekers. There is increasing evidence that Pathways to Work is not achieving the desired outcomes and that it is failing those customers with significant mental health needs.

BASE has continued to stress the importance of local engagement with health, education and social care sectors as these will provide the majority of referrals. We fail to see how prime providers are going to engage with health, social services and education providers on a local basis unless they make this a

¹¹ DWP Commissioning Strategy – Equality Impact Assessment (DWP, 2008) See <http://www.dwp.gov.uk/resourcecentre/dwp-commissioning-strategy-eia.pdf>

requirement of subcontractors. We believe that it is essential that clear linkages exist between the new providers and local initiatives such as Learning Disability Partnership Boards, PSA16 activity and City Strategies. This can only be achieved by building strong local relationships. Indeed the Department of Health document, Valuing People Now¹², states “Experience shows us that the best way for local authorities to develop service to achieve social inclusion is to invest in specialist employment support agencies but see Jobcentre Plus as the main resource to help people find jobs”.

BASE fears that if local authorities lose their stake in specialist provision contracted by DWP they will disinvest substantially in related areas. BASE estimates that local authorities invest a sum comparable to the budget of Workstep and this non-statutory expenditure may be at significant risk if contracts are lost, particularly in the current economic climate. A recent interim report¹³ from the Department for Communities and Local Government highlights the relationship between local authority partnerships and welfare to work provision and the dangers that the DWP Commissioning Strategy poses to specialist providers and the voluntary sector.

We believe that DWP has consistently underestimated how programme income can act as a leverage on additional funds, whether from health and social care or from charitable sources. Much of this additional funding will be at risk if contracts become regional.

There are a number of issues of particular relevance to local authorities. There is the potential for redundancies within employment support services if posts are not seen to be covered by TUPE and it is likely that some prime providers will be unwilling to accept staff from local authorities on a TUPE basis and

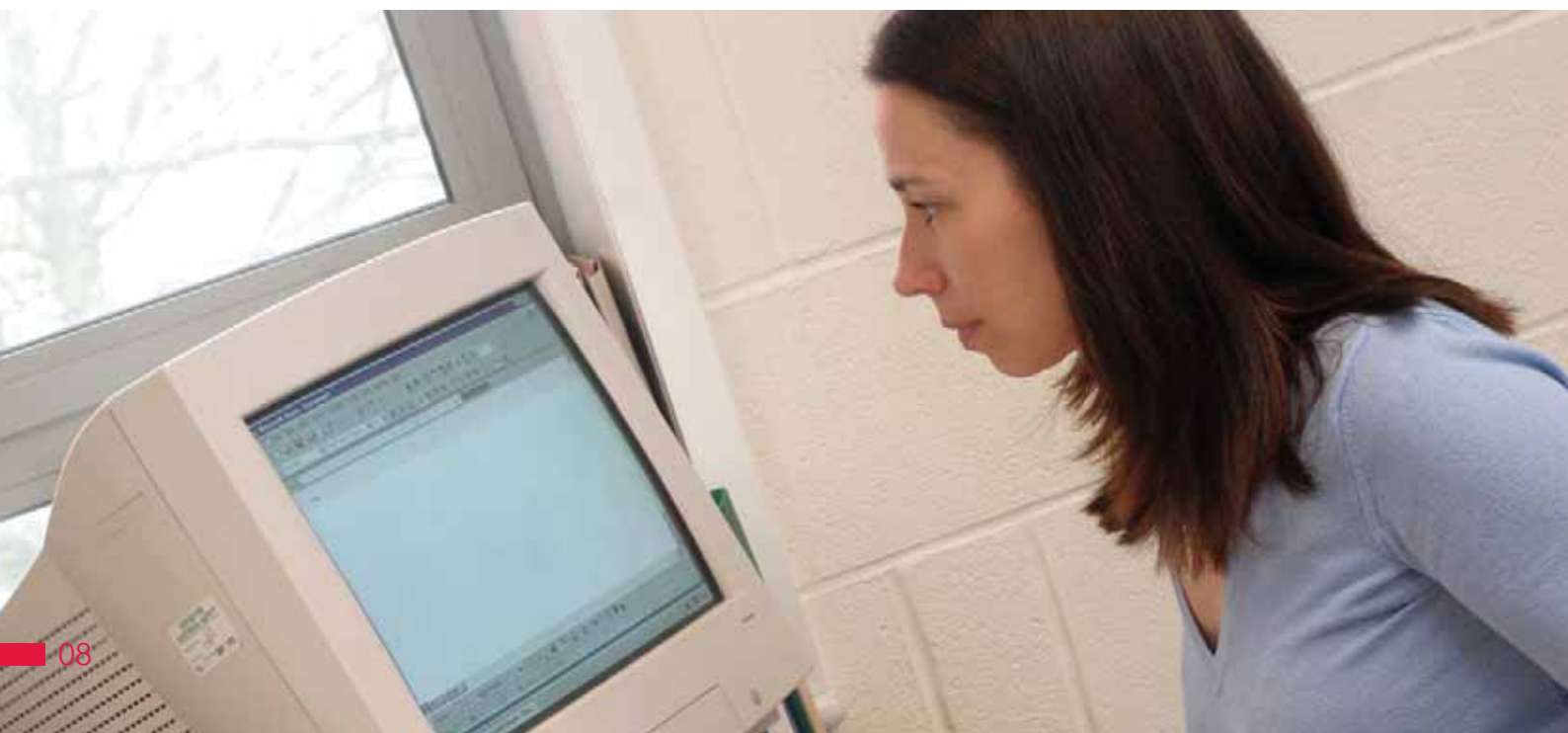
might well seek a shared cost solution. Other staff may not have the connection with Workstep included in their employment contracts and Councils will be liable for redundancy costs. Many authorities have clients placed in the supported businesses of external organisations and pay an additional capitation payment to support their employment – it is not clear how this might be affected by contract changes should the local authority lose its Workstep contract. BASE fears that local authorities may seek to recoup redundancy liability costs from within their employment support budgets further reducing the resources available to support customers.

The transition between the existing and future provision is likely to be fraught with difficulties, most of which are not yet clearly understood. DWP has never before transferred 14,000 people from one programme to another and has very limited data on which to plan the transition. DWP have set aside a six month transition period from the award to the start of new contracts. New providers will be expected to renegotiate any employer subsidies. It is likely that many employers will resist the removal of subsidies and may threaten redundancy.

It is not clear why six months is needed and the long transition is likely to cause severe problems with service availability as exiting providers lose their existing staff. TUPE may be an option for some staff but the new provider will only have to give 90 days notice to change their contracts of employment. BASE believes that this will cause great upheaval for customers because of the loss of continuity and knowledge of customer needs. It will cause confusion and dissatisfaction for employers and it will destroy the base of local provider expertise that DWP and the Department of Health wishes to build on as agencies struggle to retain staff.

¹² Valuing People Now (DH, Dec 2007)

¹³ Tackling Worklessness: A review of the contribution and role of local authorities and partnerships - Interim Report (DCLG, Nov 2008)



Our Proposals

BASE believes that there are two other options for DWP. We state no preference and present them as alternative courses of action for DWP depending on whether they wish to retain some responsibility for the management of specialist disability employment provision.

Option 1

The first option takes the logical step from assuming that DWP wishes to absolve management responsibility for provision and that would be to hand over the resources directly to local government. This would mean a significant sum being handed over to each local authority to deliver an employment support function. Resources could be apportioned and ringfenced along the lines of the Department of Health's Mental Health Grant, thus avoiding the lost resource which will otherwise go into management fees and profit margins. This option would divest DWP of the responsibility for overseeing specialist support and allow local authorities to tailor their provision to meet local priorities and PSA targets as well as integrate it with the new education funding responsibilities.

This option would allow local authorities to provide an employment support service themselves or contract it out to a voluntary or private sector provider. It would enable close linkages with the local forums for planning and delivering health, social care and education services and would directly link to activity delivered through PSA16 or through multi-area agreements.

Option 2

Option 2 assumes that DWP wishes to retain management responsibility for employment support programmes. In order to maximise the engagement of education, health and social care referral routes, BASE proposes that the new programme should be tendered at Jobcentre Plus district level. This would entail the award of 50 contracts across England, Scotland and Wales and would allow specialist providers an opportunity to form consortia with a nominated lead provider.

We do not think it should be beyond DWP's capacity to monitor 50 contracts, a substantial reduction from the existing 400 contracts. Though contracting would be at district level, we would like to see regional contract management arrangements remaining in place. Customers would have a choice of service by being able to choose between the programme provider and Remploy provision.

We would like to see a requirement for each potential prime provider to submit a separate Invitation to Tender (ITT) document for each district contract so that they can demonstrate an understanding of local conditions. These should be subject to scrutiny by local government during the scoring procedure.

We would want to see protection afforded to supported businesses for the life of the contract and this should consist of a continued grant of £4,800 pa per place. We would also want to see the prime contractor engaging with the supported business to develop an integrated placement programme that would allow the supported business to operate at a full subcontract level within the contract area. This would enable businesses to plan their modernisation so that protection would not be required during the next contract.



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“BASE is calling on all disability organisations, providers, employers, and customers to take action as soon as possible to voice their concerns.”

How you can help

BASE has consistently lobbied for provision and funding streams that will support those at most disadvantage in the labour market to access and retain employment. We have little confidence that the current proposals will achieve this. Our experience of Pathways to Work suggests that with the current proposals the new programme will not achieve its aims for a 5% improvement in performance but instead could:

- reduce the resources available for customer support
- lead to a significant disinvestment in employment support by local authorities
- cause the loss of up to 5,000 jobs, mainly those of disabled workers
- create widespread cherry-picking whilst marginalising those most at risk of exclusion
- transfer the greatest risk burdens on to subcontracting organisations
- cause widespread confusion and distress for customers and employers

BASE will continue to work as closely as possible with DWP to bring about a new specialist programme that will meet the needs of customers. The timescales are tight but we are convinced that the current proposals will not achieve Government objectives or meet the needs of customers.

We are seeking your help to ensure that a proper dialogue is put in place before final decisions are taken which cannot be reversed. BASE is calling on all disability organisations, providers, employers, and customers to take action as soon as possible to voice their concerns over the current DWP proposals. We believe that they have the potential to decimate the specialist disability employment sector. This should be a time where we are all working together to create provision that substantially improves the employment rates of people with significant disabilities. BASE urges all organisations to press for this to happen.

Further information

For further information, please contact Huw Davies

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BASE represents nearly 200 supported employment providers across the public and voluntary sectors in Britain. We are entirely funded by membership subscription and our aim is to raise standards in the sector, inform and link members, and lobby for improved policy and funding streams.

For more information about BASE, please visit our website at www.base-uk.org

The British Association for Supported Employment is registered as a company in England and Wales.

Company reg. 05794990

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