

Privacy Impact Assessment (PIA)

Work Able Scotland

August 2017



Scottish Government
Riaghaltas na h-Alba
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1. Introduction

The purpose of this document is to report on and assess against any potential Privacy Impacts as a result of the implementation of Work Able Scotland (WAS).

2. Document metadata

2.1 Work Able Scotland

2.2 Date of report: 30 March 2017

2.3 Author of report: Anne Ashton, Employability Programme Division

2.4 Information Asset Owner (IAO) of relevant business unit: Gavin Gray

2.5 Date for review of Privacy Impact Assessment (PIA): 1st September 2017

3. Description of the project

3.1 The Scotland Act 2016 provides the opportunity to develop a distinctively Scottish approach to employment support for disabled people and those who are at risk of long-term unemployment due to a health condition. From 1 April 2017, Scottish Government (SG) will introduce transitional arrangements. These will remain in place until 30 April 2019 2018, in advance of the full SG programme of employment support from 1 April 2018.

3.2 The Work Able Scotland (WAS) Programme is a voluntary programme for unemployed customers with a health condition who want to enter work, which is owned by the Scottish Government and managed by Skills Development Scotland (SDS) on behalf of SG. The programme will be delivered by three contracted service providers who will also act on behalf of the SG; The Wise Group, Progress Scotland and Remploy The Department for Work and Pensions (DWP) work coaches will refer claimants to contracted WAS providers using a clerical process agreed between DWP and SG.

3.3 DWP will provide the following services, and process Personal Data on behalf of SG for the following purposes:

- Job Centre Plus (JCP) Work Coaches will identify eligible and suitable customers for WAS contracted providers and make referrals using an agreed clerical process as described at Annex A.
- Job Centre Plus Work (JCP) Coaches will agree customer start date with WAS contracted providers.

- With the customer's consent, Job Centre Plus (JCP) Work Coaches will action the leavers plan completed by WAS contracted providers when the customer exists the WAS service.

3.4 The scope and type of Personal Data that may be provided to or accessed by DWP as part of the Services and for the purposes as described at section 3.3 consists of:-

- Customer name
- Title
- Date of Birth
- National Insurance Number
- Postcode
- Address
- Telephone number
- 2nd Telephone number
- Employer details
- Staff payroll reference
- Salary & hours of work
- Participant Circumstances
- Potentially sensitive customer information.

3.5 Further descriptions of the Personal Data and how it will be treated are provided in **Annex A**.

3.6 The processing by both SG and DWP in respect of WFS meets the requirements of condition 5(c) of Schedule 2 of the DPA (for non-sensitive personal data) and condition 7(c) of Schedule 3 where sensitive personal data are involved.

3.7 The Scotland Act 1998, as amended by the Scotland Act 2016 (Part 3 (Welfare Benefits and Employment Support)) provides SG with the power to provide schemes such as WFS.

4. Stakeholder analysis and consultation

4.1 The following groups are involved in this project:

- Jobcentre Plus staff (including Work Coaches and Disability Employment Advisors), who are responsible for making referrals to WAS.
- The Wise Group, Progress Scotland and Remploy are WAS contracted providers, who are responsible for delivering services to customers.
- DWP Jobcentre Plus Work Coaches who will make referrals to WAS.
- SDS Skills Investment Advisors who will be responsible for the contract management and monitoring of WAS providers.

4.2 During 2015 SG consulted extensively to inform the development of Scotland's employability services. Following careful and independent analysis of the responses received, the key principles and values of the Scottish Approach to employability which will underpin devolved employability services in Scotland from 1 April 2017

were set out in March 2016 in *Creating a Fairer Scotland: A New Future for Employability Support in Scotland* (<http://www.gov.scot/Resource/0049/00498123.pdf>)

4.3 As part of the continued Fairer Scotland discussion, the Scottish Government's Employability Programme Division engaged the Central Government Digital Transformation Service (CGDTS) and User Research and Engagement (URE) teams to explore the personal experiences of people engaging with employability services. 21 organisations and over 150 individuals participated and the report completed in December 2016.

4.4 No specific consultation on this PIA was considered necessary as the programme has been designed with minimal change from existing processes in order to provide a continuity of service for this transitional year.

4.5 This PIA will be shared with DWP and SDS and published on the SG website.

5. Questions to identify privacy issues

5.1 Involvement of multiple organisations

- The delivery of Work Able Scotland will involve the Scottish Government, the Department for Work and Pensions, Skills Development Scotland and WAS contracted providers ; The Wise Group (www.thewisegroup.co.uk), Progress Scotland (can be accessed via www.thelennoxpartnership.org) and Remploy (www.remploy.co.uk) and

5.2 Anonymity and pseudonymity

- If the project does not require the matching of data sources together to produce new data.

5.3 Technology

- There will be no new or additional information technologies.

5.4 Identification methods

- The customer's National Insurance number will be used as a unique identifier.
- There will be no new or substantially changed identity authentication requirements.

5.5 Personal data

- Personal data will be transferred from DWP to WAS contracted service providers and from WAS contracted service providers to SDS Contract Management personnel as detailed at Annex A.
- The personal details of individuals will be transferred to WAS contracted service providers at the point of referral.
- These changes will apply to approximately 1,500 individuals.
- There will not be new or significantly changed consolidation, inter-linking, cross-referencing or matching of personal data from multiple sources
- The project will not involve the linkage of personal data with data in other collections, or any significant change to existing data links or holdings

5.6 Changes to data handling procedures

- There will not be new or changed data collection policies or practices that may be unclear or intrusive; the data collection will mirror an existing DWP process which they will subsequently implement on behalf of the SG.
- There will not be changes to data quality assurance or processes and standards that may be unclear or unsatisfactory.
- There will not be new or changed data security access or disclosure arrangements that may be unclear or extensive
- There will not be new or changed data retention arrangements that may be unclear or extensive.
- There will not be changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before.

5.7 Statutory exemptions/protection

- The data processing will not be exempt in any way from the Data Protection Act or other legislative privacy protections.
- The project does not involve systematic disclosure of personal data to, or access by, third parties that are not subject to comparable privacy regulation

5.8 Justification

- The project's justification does not include significant contributions to public security measures.

- During 2015 SG consulted extensively to inform the development of Scotland's employability services. Following careful and independent analysis of the responses received, the key principles and values of the Scottish Approach to employability which will underpin devolved employability services in Scotland from 1 April 2017 were set out in March 2016 in Creating a Fairer Scotland: A New Future for Employability Support in Scotland (<http://www.gov.scot/Resource/0049/00498123.pdf>)

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- The justification for the new data handling is not unclear or unpublished

5.9 Other risks

- There are no risks to privacy not covered by the above questions

6. The Data Protection Act Principles

Principle 1

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:

- a) at least one of the conditions in Schedule 2 is met, and
- b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

6.1.1 The purpose of the project has been identified and set out in March 2016 in Creating a Fairer Scotland: A New Future for Employability Support in Scotland (<http://www.gov.scot/Resource/0049/00498123.pdf>)

6.1.2 Individuals will be told about how WERE contracted providers will use their data at their initial interview, where they will be provided with WAS referral form and Training Agreement.

(<https://www.gov.uk/government/organisations/department-for-work-pensions/about/personal-information-charter>)

6.1.3 The conditions for processing which apply are:

- Condition 5(c) of schedule 2 (that the processing is necessary for the exercise of any functions of the Crown, a Minister of the Crown or a government department); and

- condition 7(1) (c) of schedule 3 (that the processing is necessary for the exercise of any functions of the Crown, a Minister of the Crown or a government department, for the processing of any sensitive data).

6.1.4 We are relying on the customer's consent to share information in order to:

- Allow data to be shared with employers
- Allow data to be shared with other training providers, although this is expected to happen rarely.
- Allow the use of case studies and good news stories for marketing purposes
- Allow a Leavers Plan to be shared with DWP
- Enable customers to be invited to take part in evaluation activities (see paragraph 6.1.7.)

6.1.5 Consent will be collected by DWP work coaches when making a referral to the WAS contracted providers and by WAS contracted providers at a later stage if additional consent is required for the purposes set out at paragraph 6.1.4.

6.1.6 The evaluation of transitional services forms an integral part of the service delivery offer for WAS and so all data processing in relation to evaluation activity is covered at sign up to the service. We are commissioning external research consultants to evaluate both service delivery processes and customer outcomes for WFS and WAS. In line with SG Social Research Guidance, this will involve completing a separate Privacy Impact Assessment and Ethics review of the commissioned evaluation activity. We will also seek informed consent from WAS customers to contact them directly (or through contracted researchers acting on our behalf) to participate in specific evaluation activities (e.g. a telephone interview or discussion group).

6.1.7 Participation on the programme is not dependent on giving consent to additional processing, where processing which is not a requirement for delivering the programme. Where the customer withholds or withdraws consent to share information as noted at paragraph 6.1.5, this will not affect their entitlement to access the services provided through Work Able Scotland.

6.1.8 With reference to the Human Rights Act,

- The actions will not interfere with the right to privacy under Article 8.
- The social need and aims of the project have been identified.
- The actions are a proportionate response to the social need.

Principle 2

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

6.2.1 The Employability Programme Plan for 2017 transitional services covers all of the purposes for processing personal data.

6.2.3 No potential new purposes have been identified as the scope of the project expands. Going forward any potential new purposes would be fully considered in line with our Data Protection obligations.

Principle 3

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

6.3.1 The information we are using of good enough quality for the purposes it is used for and is subject to internal DWP and SDS quality control.

6.3.2 All personal data is required to deliver the project.

Principle 4

Personal data shall be accurate and, where necessary, kept up to date.

6.4.1 We are not procuring new software. The software we are using allows data to be amended when necessary.

6.4.2 Personal data is gathered by DWP under their existing processes and subject to DWP internal quality control. Personal data gathered by WAS contracted providers in order to deliver the service and in order to carry out the activities listed at paragraph 6.1.4 will be gathered directly from the customer.

Principle 5

Personal data processed for any purpose or purposes shall not be kept for longer than necessary for that purpose or those purposes.

6.5.1 The personal data will be retained in line with current DWP practice. WAS contracted providers will be required to retain personal data for three years following the end of contract period.

6.5.2 Existing software allows deletion of information in line with retention periods.

Principle 6

Personal data shall be processed in accordance with the rights of data subjects under this Act.

6.6.1 Existing systems will allow us to respond to Subject Access Requests, which will be dealt with in line with the arrangements set out in the Service Level Agreement between DWP and SG in respect Of Work Able Scotland.

6.6.2 Participation on the programme is not dependent on the customer giving consent to their personal information being used for marketing purposes – see paragraph 6.1.4.

Principle 7

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

6.7.1 The transfer of personal data between DWP, SDS and WAS contracted providers will be managed via an agreed clerical process. The detail of this process is set out at Annex A.

6.7.2 All SG staff, SDS staff are appropriately vetted and are required to complete annual Data Protection Training. WAS contracted providers are required to follow data protection policy as set out in WAS rules.

Principle 8

Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

6.8.1 It is not expected that the project will require us to transfer data outside of the EEA.

6.8.2 If DWP identifies any offshoring requests that will affect data that are being processed on behalf of SG, SG will be consulted as a stakeholder in DWP's offshoring approvals process.

7. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

Risk	Ref	Solution or mitigation	Result
<p>Mismanagement by DWP staff – eg claimants who are not eligible for WAS are referred in error and therefore data shared inappropriately</p>	<p>DPA 06</p>	<ul style="list-style-type: none"> • A programme of awareness raising activity ahead of go-live will make JCP Work Coaches aware of WAS eligibility criteria. • JCP Work Coaches will be provided with a decision tree and other materials on their intranet to help them make referrals correctly. • An SG/DWP Operational Delivery Group will monitor the quality of referrals and take steps to address any issues identified. 	<p>As a result, this risk is reduced, but not eliminated. It can be accepted on the grounds that monitoring referrals will be a central role of the Operational Delivery Group.</p>
<p>Personal data is mis-managed by WAS contracted providers</p>	<p>DPA 07</p>	<ul style="list-style-type: none"> • Expectations of WAS contracted providers as data processor set out with the Work Able Scotland programme Rules (Part Three, Section D, Para 7) • WAS contracted provider security plans reviewed and approved by SDS Skills Investment Advisors. • Regular contract management site visits • Process in place in relation to any complaint or request made in respect of any personal data. • Mitigation of risk embedded in WAS Programme Rules and monitored via SDS WAS contract management. 	<p>Accept – risk is low</p>

<p>Personal data is mis-managed by SDS staff</p>	<p>DPA 08</p>	<ul style="list-style-type: none"> • Personal data transferred via secure routes to a limited number of authorised personnel • Secure storage for electronic and hard-copy data • Regular review of SDS security arrangements • Mitigation of risk embedded in WAS Programme Rules and monitored via SDS WAS contract management. 	<p>Accept – risk is low</p>
<p>General Data Protection Regulation – Fair Processing Notices do not meet new standard.</p>	<p>DPA 09</p>	<ul style="list-style-type: none"> • This PIA will be reviewed after 6 months at which time any necessary amendments will be made to align with the new standard. 	<p>Accept – risk is low</p>
<p>Transfer of referral form via clerical process introduces the risk of personal data being inappropriately shared</p>	<p>DPA 10</p>	<ul style="list-style-type: none"> • Established practices in place between DWP and SDS to safeguard the transfer of information, mirroring the existing process for Employability Fund. • Experience of similar arrangements (eg for Employability Fund) indicates low risk. • Mitigation of risk embedded in WAS Programme Rules and monitored via SDS WAS contract management. 	<p>Accept – risk is low</p>

8. Incorporating Privacy Risks into planning

Explain how the risks and solutions or mitigation actions will be incorporated into the project/business plan, and how they will be monitored. There must be a named official responsible for addressing and monitoring each risk.

Risk	Ref	How risk will be incorporated into planning	Owner
Mismanagement by DWP staff – eg claimants who are not eligible for WFS are referred in error and therefore data shared inappropriately	DPA 06	Risk will be monitored by the DWP/SG Joint Operational Performance Group	JCP Integration Team Leader
Personal data is mis-managed by WAS contracted providers	DPA 07	WAS Delivery Assurance Group	Service Delivery Team Leader
Personal data is mis-managed by SDS staff	DPA 08	Mitigation of Risk managed within SDS Data protection policy and precedures. WAS Delivery Assurance Group	SDS
General Data Protection Regulation – Fair Processing Notices do not meet new standard.	DPA 09	WAS Delivery Assurance Group	Service Delivery Team Leader
Transfer of referral form via clerical process introduces the risk of personal data being inappropriately shared	DPA 10	WAS Delivery Assurance Group	Service Delivery Team Leader

9. Authorisation and publication

The PIA report should be signed by your Information Asset Owner (IAO). The IAO will be the Deputy Director or Head of Division.

Before signing the PIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust, has addressed all the relevant issues and that appropriate actions have been taken.

By signing the PIA report, the IAO is confirming that the impact of applying the policy has been sufficiently assessed against the individuals' right to privacy.

The results of the impact assessment must be published in the eRDM with the phrase "Privacy Impact Assessment (PIA) report" and the name of the project or initiative in the title.

Details of any relevant information asset must be added to the Information Asset Register, with a note that a PIA has been conducted.

I confirm that the impact of delivering Work Able Scotland has been sufficiently assessed against the needs of the privacy duty:

Gavin Gray (Deputy Director, Employability Programme Division)	Date each version authorised Version 1.0: 30 March 2017
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Annex A

WAS Process List

Customer Journey Reference	Description of activity and Data Processing Arrangements
1.	SDS Provide DWP 3rd Party Team with Provider details and fact sheets. <ul style="list-style-type: none">• No personal data is shared at this stage
2.	DWP 3rd Party Team enter WAS Contracted Provider opportunity on LMS and WSP and provider factsheet onto DWP District Toolkit? <ul style="list-style-type: none">• No personal data is shared at this stage
3.	JCP Work Coach identifies eligible customers for WAS <ul style="list-style-type: none">• No data is shared at this stage.
4.	JCP work coaches make clerical referrals on WAS Referral document to WAS Contracted Provider Single Point of Contact <ul style="list-style-type: none">• DWP will send completed WAS Referral form containing customer data by post to WAS Contracted Provider.• SDS Information Security policy - Appendix 9 must be adhered to or Provider will be in breach of Contract with SDS and may have their contract terminated
5.	JCP contacts provider to arrange suitable date to meet customer (within 5 working days of referral) <ul style="list-style-type: none">• Work Coach discusses sensitivities by telephone with provider
6.	With the customer's consent the WAS Contracted Provider will complete an Exit Report for both the customer and DWP within 5 calendar days of the actual end date. <ul style="list-style-type: none">• Customer data potentially including sensitive information• Shared by WAS Contracted Providers with DWP In person or through secure mail• Leaving details must be entered immediately onto CTS/FIPS using the leaving codes set out in the training agreement

7.	<p>JCP work coach will action the Exit Report from the SG Providers (if received)</p> <ul style="list-style-type: none"> • No data is shared at this stage.
8.	<p>WAS Contracted Provider notifies DWP about the death of a customer</p> <ul style="list-style-type: none"> • Data Protection Act does not apply.
9.	<p>DWP notifies WAS Contracted Provider about the death of a customer</p> <ul style="list-style-type: none"> • Data Protection Act does not apply
10.	<p>Customer Complaints</p> <ul style="list-style-type: none"> • Customer data including personal information • Shared between customer, SDS, SG, WAS Contracted Provider and potentially DWP by email / scanned letter via email.
11.	<p>WAS Contracted Provider Reports Customer Unacceptable Behaviour</p> <ul style="list-style-type: none"> • Customer data including personal information • Shared between WAS Contracted Provider and SG and/or DWP by secure email



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Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
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ISBN: 978-1-78851-146-9 (web only)

Published by The Scottish Government, August 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS281006 (08/17)

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