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Design Choices in Market
Competition for Employment
Services for the Long-Term
Unemployed

Ludo Struyven

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SUMMARY

1. Most Western countries have a long tradition of employment service provision by public bodies and non-profit organisations, but not by for-profit organisations. The creation of a quasi-market arrangement is not a simple choice for government. This paper underscores the difficulties and discusses design options. It calls for a complex balancing act between regulation and the creation of room for market competition, between old and new instruments and procedures, and between efficiency and equity. It identifies as two key issues the need to actively create sufficient room for market competition, and the need for "positive creaming" which encourages providers to concentrate their efforts on the most disadvantaged target groups.

2. The paper starts by stating the principles and preconditions for market competition, with a focus on possible quasi-market arrangements for strengthening service provision for the long-term unemployed in Flanders. It sets out four models for contracting with employment service providers. These are based on the concept of the "trajectory", which refers to multiple steps - such as initial registration for employment services, detailed assessment, the resolution of barriers to employability, the formulation of an individual action plan, vocational training, job-search training and job placement – through which the jobseeker may be guided. At one extreme, in Model 1, the public body retains overall control – probably itself implementing the steps of detailed assessment and definition of individual action plans – and contracts with private providers only for specific "sub-components" of the trajectory. At the other extreme, in Model 4, the role of the public principal is limited to recruiting jobseekers and determining their eligibility for services - after this, the private provider takes over the whole process, probably itself outsourcing some of the specific tasks.

3. Many OECD countries now use Model 1 to a certain extent, insofar as the Public Employment Service (PES) contracts with private providers to implement measures such as Job Clubs, job-search training or vocational training. Because jobseekers who are referred to a private provider usually return to the care of the public authority after some months or a year, it may be said that few countries have implemented Model 4. The paper therefore views Models 2 and 3 as the main options for the Flemish government. In Model 2, the public body contracts separately for a few large subsets of its overall service menu – for example, issuing separate contracts for case management and placement follow-up, and for vocational training. In Model 3, one main provider – who may subcontract part of the work to other providers – is responsible for the greater part of the trajectory, although the public body still retains more extensive responsibility for intake, assessment and trajectory planning than it would under Model 4.

4. The paper evokes a wide range of management issues that arise in the implementation of tendering arrangements. Some decisions depend on model of tendering chosen. For example, in Model 1, a provider who has been contracted to provide vocational training will sometimes need to refer back jobseekers who are found unable to benefit, so in this case arrangements for referral back must be set out. Similarly, when two or more major sub-components of a trajectory are each delivered by different providers, financing of the providers based primarily upon employment outcomes may not be practical.

5. The design issues examined include structuring the tendering process; relevant competition legislation; measures to ensure an adequate degree of competition; the quality certification of providers, and other criteria for awarding tenders; financing mechanisms, which may relate payments to providers to

input costs, to specific processes and services delivered or to employment outcomes; cross-subsidisation, double financing and possible bids by public sector bodies to act as providers; the relative roles played by the principal and providers in assessing jobseeker needs; issues arising from measures such as labour market training and job creation programmes which may require additional payments to providers, or may still be implemented by the public sector; processes for referring jobseekers to providers, and for providers to refer back to the principal jobseekers who are unlikely to benefit from their services; data exchange and privacy; jobseeker rights and obligations in this quasi-market; and "creaming" and counter-measures to ensure equal treatment and guarantee a minimum level of service to disadvantaged jobseekers.

6. The paper thus gives policy-makers an overview of many different issues that are liable to arise, without always recommending a particular solution. One conclusion is that a country which chooses market competition faces a complex process of weighing up, testing and seeing how it works.

RÉSUMÉ

7. La plupart des pays de l'OCDE ont une longue tradition de services de l'emploi fournis par des organismes publics et à but non lucratif, à l'exclusion des organismes à but lucratif. La création d'un *quasi-marché* n'est pas un choix facile pour le gouvernement. Ce document souligne les difficultés et examine les choix possibles dans la conception d'un système quasi-marchand. Il appelle à un jeu d'équilibre entre la régulation et la création de la place pour la concurrence, entre les instruments et les procédures anciens et nouveaux et entre l'efficacité et l'équité. Il identifie comme deux questions clés le besoin de créer activement assez de place pour la concurrence et le besoin d'un "écrémage positif" qui encourage les prestataires à concentrer leurs services sur les groupes les plus difficiles à placer.

8. Le document commence en constatant les principes et les conditions préalables à la concurrence de marché, dans la perspective des éventuels dispositifs quasi-marchands pour renforcer l'offre de services aux chômeurs de longue durée en Flandres. Il expose quatre modèles de contrats avec les prestataires de services. Ces modèles sont basés sur le concept de la "trajectoire", qui fait allusion aux étapes multiples – telles que l'inscription initiale auprès des services d'emploi, l'évaluation approfondie, la résolution des obstacles à l'employabilité, la création d'un plan d'action individuel, la formation professionnelle, la formation à la recherche d'emploi et le placement – à travers lesquelles le chômeur pourra être guidé. A un extrême, le Modèle 1, l'organisme public conserve l'autorité globale – sans doute mettant en œuvre lui-même les étapes de l'évaluation approfondie et de la création des plans d'action individuels – et ne soustraite avec les prestataires commerciaux que pour certains "sous composants" spécifiques de la trajectoire. A l'autre extrême, le Modèle 4, le rôle du commanditaire public se limite à l'inscription des chômeurs et l'évaluation de leur éligibilité pour les services – ensuite, le prestataire commercial reprend la totalité du processus, sans doute sous traitant lui-même certaines tâches spécifiques.

9. De nombreux pays de l'OCDE emploient désormais le Modèle 1, dans la mesure où le Service public de l'emploi (SPE) engage les prestataires commerciaux pour la mise en œuvre de mesures telles que les Job Clubs, la formation à la recherche d'emploi ou la formation professionnelle. Puisque les chômeurs dirigés vers un prestataire commercial reviennent souvent au bout de quelques mois ou une année aux soins de l'autorité publique, on peut affirmer que peu de pays emploient le Modèle 4. Le document présente donc les Modèles 2 et 3 comme les choix principaux pour le gouvernement flamand. Dans le Modèle 2, l'autorité publique signe des contrats recouvrant des grands domaines de son menu global de services – par exemple un contrat distinct pour le suivi de la recherche d'emploi et du maintien en emploi et un autre pour la formation professionnelle. Dans le Modèle 3, un prestataire principal – qui sous traite éventuellement à d'autres prestataires – est responsable pour la majeure partie des trajectoires, bien que l'autorité publique conserve une responsabilité plus large pour l'inscription, l'évaluation et le projet de trajectoire que dans le Modèle 4.

10. Le document évoque une large gamme de questions de gestion qui se posent lors de la mise en place des appels d'offre et des contrats. Certaines décisions dépendent du modèle choisi pour les contrats avec les prestataires. Par exemple, avec le Modèle 1 un prestataire engagé pour dispenser la formation professionnelle trouvera parfois qu'il est nécessaire de renvoyer un client qui s'avère incapable d'en profiter et donc les modalités de renvoi doivent être précisées. De même, si deux ou plusieurs sous composants d'une trajectoire sont fournis chacun par des prestataires différents, le financement des prestataires principalement en fonction des résultats d'emploi ne sera sans doute pas pratique.

11. Parmi les questions de conception examinées sont : la structure de l'appel d'offres ; la législation sur la concurrence qui s'applique ; les mesures pour assurer un degré adéquat de concurrence ; la certification qualité des prestataires et d'autres critères pour l'attribution des contrats ; les mécanismes de financement, qui peuvent lier les paiements aux prestataires à leurs dépenses réelles, aux processus et services spécifiques livrés ou à leurs résultats en termes d'emplois ; le subventionnement croisé, le double financement et les éventuelles offres de la part d'organismes publics d'agir en tant que prestataire ; l'articulation avec des mesures telles que les programmes de formation des chômeurs et de création directe d'emplois qui peuvent nécessiter des paiements supplémentaires aux prestataires ou qui peuvent être mis en œuvre toujours par le secteur public ; les processus d'assignation des chômeurs aux prestataires et de renvoi par les prestataires de chômeurs inaptes à profiter de leurs services ; l'échange de données et la protection des données personnelles ; les droits et les obligations des chômeurs dans ce quasi-marché ; et l'"écrémage" et ses contre-mesures visant à assurer un traitement égal et garantir un niveau minimum de service pour les chômeurs difficiles à placer.

12. Le document donne donc aux responsables politiques un survol de beaucoup de questions qui risquent de se poser, sans toujours recommander une solution spécifique. L'une des conclusions est que le pays qui choisit la concurrence de marché doit prévoir un processus complexe de mise en balance, d'expériences et d'apprentissage par la pratique.

PREFACE

13. This paper is a shortened and slightly redrafted version of a report written in Dutch for the Flemish Minister of Employment, Mr. Renaat Landuyt, and his successor, Mr. Frank Vandenbroucke in 2004. Its analysis focuses on the implementation in Flanders, using quasi-market arrangements, of a “comprehensive approach” aiming to ensure effective engagement of the long-term unemployed in employment services. Drafts of the report were discussed by a working group of administrators and social partners and chaired by Mr. Fons Leroy, the Minister's principal private secretary. However, the author remains solely responsible for the proposals and recommendations. OECD is making the paper available in its series of Social, Employment and Migration Working Papers as a contribution to analysis in a policy area where relatively little literature has, until recently, been available. The author has already, together with a co-author Mr. Geert Steurs, provided No. 13 in this series of Working Papers, *The Competitive Market for Employment Services in the Netherlands*, which gives the most detailed account available in English of the early years of competitive provision in that country.

14. Employment service operations in Flanders are seen – as in the Netherlands – in terms of jobseeker “trajectories” which (as already described) consist of multiple services through which the jobseeker is guided sequentially. Other terms used in this paper include “reintegration”, which in most cases means return to work by an unemployed person, and the “preventive” and “curative” groups, the former referring to the short-term unemployed (for whom long-term unemployment may be prevented) and the latter referring to the long-term unemployed (for whom intensive employment services are needed to “cure” the problem). These terms may not always be familiar to English readers but they are retained in the translation, in order to more accurately reflect the flavour of the Dutch original text.

TABLE OF CONTENTS

SUMMARY	3
RÉSUMÉ	5
PREFACE	7
DESIGN CHOICES IN MARKET COMPETITION FOR EMPLOYMENT SERVICES FOR THE LONG-TERM UNEMPLOYED	10
Introduction	10
1. PRINCIPLES OF MARKET COMPETITION	11
1.1. The creation of a market-type mechanism through tendering	11
1.1.1 The split between principal and provider	12
1.1.2 Intensification of competition	13
1.1.3 Management by results	14
1.2. Market competition: motives and preconditions	15
1.2.1 Motives	15
1.2.2 Conditions for market competition	15
1.2.2.1 Creating a varied playing field	15
1.2.2.2 Low barriers to entry	16
1.2.2.3 Conditions for fair competition	16
1.2.2.4 Maximum transparency	17
1.2.3 Competition is not automatic	17
1.3. Conclusion	18
2. MODELS FOR TENDERING IN THE “COMPREHENSIVE APPROACH”	18
2.1. Distinctions between the “preventive” and “curative” groups	18
2.1.1 New jobseekers	18
2.1.2 Long-term unemployed	18
2.1.3 Division of the curative group	19
2.2. Distinction by functions	19
2.2.1 Foreign variations	19
2.2.2 Models for the curative target group	20
2.3. Conclusion	24
3. FROM OUTSOURCING TO TENDERING	24
3.1. Difference between outsourcing and tendering	24
3.2. Forms and rules of tendering	25
3.2.1 Award methods	25
3.2.2 European legislation	26
3.3. Conclusion	27
4. DESIGN CHOICES IN TENDERING	27
4.1. Referral of jobseekers	27
4.1.1 Choice for the provider and inflow guarantee	28
4.1.2 Freedom of choice for the jobseeker	28
4.1.3 Referral back of clients	29
4.1.4 Application to the models	30
4.2. Use of instruments	31

4.2.1	On-the-job training and subsidised work-experience contracts	31
4.2.2	Training.....	32
4.3.	Outcomes, pricing and payment structure.....	32
4.3.1	Defining outcomes	32
4.3.1.1	Types of outcome.....	32
4.3.1.2	Measuring outcomes	33
4.3.1.3	Benchmark levels of outcomes	34
4.3.2	Pricing and payment structure	34
4.3.2.1	Pricing.....	34
4.3.2.3	The payment structure.....	35
4.3.2.3	Application to the models	36
4.4.	Combination of government contracts and market activities.....	37
4.4.1	Cross-subsidisation	37
4.4.2	Double financing.....	37
4.5.	Quality, monitoring and quality labelling.....	38
4.5.1	What kind of monitoring?.....	38
4.5.2	What kind of quality labels?	39
4.6.	Privacy and data transmission.....	40
4.6.1	Protection of personal privacy	40
4.6.2	Rights and obligations.....	40
4.6.2.1	Rights of jobseekers.....	40
4.6.2.2	Role of the provider concerning obligations and sanctions	41
4.6.2.3	Registration and transmission of client data	41
4.6.2.4	Application to the models	42
5.	CONCLUSIONS	43
5.1.	Consistency in developing the tender system according to one of the models.....	43
5.2.	Room for market competition.....	44
5.3.	Positive creaming off of the most difficult target groups	45
5.4.	Government guarantees	46
5.5	Procedure and approach.....	46
REFERENCES	47

TABLES

Table 2.1.	Core functions of a trajectory and models for tendering	23
Table 3.1	Characteristics of outsourcing versus tendering: typical split	25
Table 4.1.	Fixed or flexible inflow capacity correlated to competition and freedom of choice	29
Table 4.2.	Definition of types of outcome	33
Table 4.3	Full or partial outcome financing correlated to risk, pricing and creaming off	36

FIGURES

Figure 2.1.	Model 1 and the trajectory	21
Figure 2.2.	Model 2 and the trajectory	21
Figure 2.3.	Model 3 and the trajectory	21
Figure 2.4.	Model 4 and the trajectory	22

DESIGN CHOICES IN MARKET COMPETITION FOR EMPLOYMENT SERVICES FOR THE LONG-TERM UNEMPLOYED¹

Introduction

15. Reintegration services (*i.e.* services which promote the return to work) are in the throes of change in many countries. Gone are the times when publicly-financed labour market services were automatically provided by the government's own organisation. Rather than the public and sometimes monolithic system of job brokerage and reintegration, several countries have switched to a multi-actor system of public and private organisations. In certain countries, this new development is a reaction to a perception that the performance of public job-brokerage organisations was inadequate (as in Australia and the Netherlands). In Flanders, policy is primarily geared towards providing an additional supply of reintegration services *via* market competition, given the limited capacity of the public provider.

16. The present paper meshes with the decision by the Flemish government to extend a "comprehensive approach" (*sluitende aanpak*; this aims to ensure that the unemployed person can be offered a job, a work-experience place or schooling within twelve months) for long-term unemployed people (the "curative group") *via* a tender system. Up till 2004, the curative group has been largely neglected by the Public Employment Service, partly fostered by the European guidelines (Struyven and Verhoest, forthcoming). With this decision to involve the private sector, Flanders faces a dual challenge: not only engaging with long-term jobseekers, but also managing market competition. Competition for the implementation of publicly-financed services for jobseekers is a new phenomenon, not only for the private providers but also for the principal (*i.e.* the body, in this case public, which issues the call for tenders and awards and manages the contracts). The tendering development therefore has something of the nature of a policy experiment which can be informative to other countries.

17. Australia and the Netherlands in particular are world leaders in the introduction of market competition for the labour market services. Nonetheless, it is difficult to talk of *the* market system in publicly-financed job brokerage and/or reintegration. This is because significant differences exist between these countries. This has already been made clear in other publications (Struyven *et al.*, 2002; Grubb, 2003; Struyven and Steurs, forthcoming). The countries concerned not only differ in the operational and technical interpretation of the system, but also in the specific procedures and processes of tendering, contracting and monitoring. Moreover, we note a rapid evolution in the systems. Countries that have chosen one or another form of market competition are entangled in an almost continuous process of adapting and adjusting the system.

1. By Ludo Struyven (Higher Institute of Labour Studies - Catholic University of Leuven), correspondence address: ludo.struyven@hiva.kuleuven.ac.be. I would like to thank Mr. David Grubb from the OECD for his interest in publishing this paper for an international readership and his editing suggestions and comments. Special thanks go to my colleague Ingrid Vanhoren, who assisted in writing the Dutch report. Thanks also to the Flemish Department of Employment for their financial support. Last but not least I would like to thank the many interviewees from governments, providers and other stakeholders in Australia, the Netherlands and Flanders-Belgium.

18. This raises the question of the extent to which various tender systems can achieve the intended market competition and, at the same time, contribute to the intended policy goals. After all, market competition is not a simple choice for the government, given the influence of the economy, the uncertainty about placement outcomes and the strict technical requirements (which include issues of management, tendering mechanism, and quality assurance). Also, some specific questions arise concerning the position of the public employment service (PES): to what extent and in what way is the tender model also feasible within a public system? In which areas is adaptation of the PES system necessary?

19. These questions form the basis for the present paper. The objective is to outline the contours of tendering (*i.e.* contracting-out with market competition) to implement a guidance guarantee for long-term unemployed jobseekers. The result is a framework of practical recommendations for the introduction of tendering in countries like Flanders, which are in an early period of market operation. The paper is based on research into the introduction of market competition in the area of job brokerage and reintegration. The findings are particularly based upon the two prototypes, Australia and the Netherlands (Struyven *et al.*, 2002; Struyven and Steurs, 2002; 2003; Struyven and Steurs, forthcoming). We also make use of an emerging set of comparative studies and evaluation studies, especially by OECD (2001), Considine (2001), Productivity Commission (2002) and Grubb (2003).

20. As stated above, *the* model for tendering does not exist and practices in other countries cannot simply be transferred into a different economic and labour market setting, and a different institutional structure with its own past history. The many choices relating to the design and implementation of a tender always interact with other elements of the system and of the reintegration market. An ideal format for market competition – one which has demonstrated its value in a wider group of countries – does not exist. Nonetheless, its implementation in Australia and the Netherlands in particular provides many lessons, because both countries have opted, in a fairly radical way, for full market competition. In this paper, we refer regularly to experiences abroad although we do not have room here to explain these case studies in detail.

21. This paper is structured as follows. In the first section, we examine the basic principles of a tender system and set out in detail the preconditions for market competition. Section 2 deals with the operational models for tendering to implement the “comprehensive approach”. Section 3 shows that this goes further than the customary practice of outsourcing. Section 4 specifies the design choices for each model in terms of referral of jobseekers, the deployment of training and work-experience instruments, pricing and payment structure, combination of government contracts and market activities, monitoring and quality assurance, privacy and sanctioning of the unemployed. This provides the necessary building blocks for a coherent implementation of one of the models presented and the associated design of an initial call for tenders. The fifth and last section summarises the possible options and closes with some overall recommendations.

1. PRINCIPLES OF MARKET COMPETITION

22. Countries which decide to involve the private sector in the reintegration of long-term unemployed people face a dual challenge: not only tackling unemployment but also implementing market competition. In this section, we explain the market-type mechanism in more detail. Then we briefly summarise the motives for market competition and we deal more extensively with the preconditions for market competition.

1.1. The creation of a market-type mechanism through tendering

23. The creation of a market-type mechanism through tendering is based on the idea that the tasks which the government is supposed to fulfil do not necessarily have to be implemented by the government

itself. The government can make use of external parties, while the public provider no longer acts as first or preferred supplier for the government. In this way, the government is better able to devote itself to its policymaking and policy-monitoring role. When tendering is used, private players (commercial and non-commercial) take over the service delivery from the government, and the role of public organisation shifts to that of “gateway”. The service delivery section of the former government provider may continue, but only as one of the private players.

24. As part of the administrative developments of recent decades in Flanders, as in many other countries, the Public Employment Service (VDAB²), has evolved into an independent, semi-public government service, managed by the social partners. At the heart of this development lies the four-year performance contract between the Flemish government and the VDAB; this defines objectives regarding results, resources and effort, and makes financing partly dependent on the results attained. The VDAB not only implements policy but also has a number of specific policy development, support and monitoring tasks. For policy-implementation tasks, the trend is towards outsourcing to third parties, particularly in the case of training.

25. Currently, therefore, in terms of the organisation and operation of PES policy, the market-type mechanism is already used in various ways. A tender system adds a new and radical step to this practice: the government is now going to use external parties to fulfil government tasks. The basic principle of tendering is the contestability of the former PES division for reintegration: the publicly-owned provider finds itself in a “reversed” position because the PES division (potentially) starts competing to perform government tasks regarding the reintegration of jobseekers. This implies that the organisational components in question become even more self-reliant and, as independent entities, enter into a direct contractual relationship with the commissioning body within the government.

26. Three basic principles underlie the implementation of a market-type mechanism through a tender system: the split between principal and provider, intensification of competition between the various players and management based on results.

1.1.1 *The split between principal and provider*

27. The tender system means that services that are traditionally offered by the PES are now offered by a range of public and private organisations, both commercial and non-commercial. Many countries are witnessing a trend for the PES itself to make use of external parties for certain components of a service, whether or not this is within the context of a framework laid out by the political authorities. This is the practice, well-known in Flanders, of outsourcing. For many years the VDAB in the role of principal has been contracting with third parties (usually non-profits, for training programmes). This gatekeeper’s role can be narrow (as in Australia) or broad (as in the Netherlands), and there may be only one principal/purchaser (as in Australia) or several (as in the Netherlands) (Struyven and Steurs, 2002; Struyven and Steurs, forthcoming).

28. The principle of *tendering* is fundamentally different from that of *outsourcing*. In the Netherlands and Australia, a full purchaser-provider split has been implemented, *i.e.* all service providers – including the former public provider, if any – are obliged to compete. This implies that the PES cannot be both judge and judged, both principal and provider. The public sector continues in the role of principal and “gatekeeper” for access to private service providers.

2. VDAB: Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding.

29. The first basic principle is therefore that, in tendering, the purchaser and provider are two absolutely separate organisations. Outsourcing (or subcontracting) will also be part of a tender system, but will emanate from the individual providers and within the framework created by the tender system.

1.1.2 *Intensification of competition*

30. Market competition *via* a system of tendering implies two goals: on the one hand, the promotion of competition and, on the other, the achievement of policy goals (*cf.* the goals of the “comprehensive approach”). The importance of competition between providers may not be underestimated: the premise is that transactions on a free market lead to increased efficiency and quality. According to market theory, among the possible advantages of market competition are the operation of the price mechanism and consumer sovereignty. On the one hand, the price mechanism produces a balance between demand and supply. On the other hand, consumer sovereignty means that service providers will offer the best quality at the lowest costs, and this indicates that the client should be free to choose his or her own service provider.

31. In Australia and the Netherlands, consumer sovereignty also has only a limited impact, partly because many clients do not exert their right to choose a provider and in some cases little choice is available. The operation of the price mechanism is also weak, because contracts are awarded on the basis of “quality” more than “price”. In these countries, market competition takes place particularly on the basis of “quality” as assessed by the purchaser – referring particularly to measured employment performance, *i.e.* the track record of success in achieving employment outcomes, when this information is available. As stated by Grubb (2004), this approach should be used to ensure that market competition results in increased social welfare. However, the balance between price, consumer sovereignty and measured employment performance as the driving principles of market competition is not definitely settled, and some shifts towards greater emphasis on the first two principles may occur in future.

32. Within the parameters of an activation model, clients are obliged to participate – they don’t have an option of opting out. Since the motivation of some clients requires effective enforcement of obligations for participation in employment services, job search and acceptance of suitable work, the scope for client choice may not include providers who impose no obligations of this kind.

33. Competition between providers and client choice are two sides of the same coin. Nonetheless, the market for reintegration services cannot so easily be compared with a pure market; it is a “quasi-market” (Le Grand and Bartlett, 1993). In quasi-markets, three important differences exist (Struyven and Steurs, forthcoming):

- In a quasi-market, competition is not necessarily driven by the profit motive because non-profit and public organisations can also compete.
- Public resources are still involved, which means that total demand can only move around between providers from one tender round to another (Brandesen *et al.*, 2000).
- Purchasing power does not lie with the individual client, but with a commissioning body acting as principal on behalf of the client.

34. These differences partly explain why an active government attitude is required in order to achieve the goal of a competitive market, as witness the complexity and dynamic process of tender systems in other countries. The government remains closely involved through dictating certain limit conditions. Transaction costs (for principal and provider) have to remain under control, the reintegration market must be sufficiently accessible to new players, and the competition must be able to operate on the basis of price. Effort is required in order to ensure that the right goods are produced and to achieve the social objectives.

This is inherent in a quasi-market (*cf.* Le Grand and Bartlett, 1993; van der Veen, 1997). A quasi-market can only function if the following five requirements are met: a competitive market structure (price competition, low barriers to entry, and a wide playing field); availability of all relevant information; minimum transaction costs; correct (financial) incentives; and avoidance of creaming, *i.e.* the selection of clients who are easiest to serve or most likely to have positive results (*ibid.*). One particular question is the role played by price in the selection of providers: price is the most significant incentive for cost-efficient behaviour, but the price of job brokerage and reintegration services is not clearly definable. After all, it is impossible to predict, for every individual person, how long it will take and which services will be used in order for him or her to find work, in spite of all the tools and data technology (see Section 2). A private provider will take this risk into account in the price calculation, while the government will attempt to minimise creaming (which also occurs in a public system).

35. Job brokerage and the activation of jobseekers (*via* guidance, training and job-search support) has evolved in recent decades into a classical government domain with an important economic and social function. This means that the political authority pursues certain goals based on social interests, which transcend the strictly private economic interest. A key question regarding tendering is how the government can protect the collective interest. Closely related to this is the question of what is transferred to the market: to what extent can the government leave decisions affecting the right to benefits or the principle of equal treatment to private organisations, particularly profit-making organisations? Tasks which could be transferred include intake, defining whether someone is eligible for a trajectory (*i.e.* a sequence of employment services, such as training, work experience, and job-search assistance), drawing up a trajectory plan, the possible referral of clients to private providers, and evaluating the fulfilment of jobseeker obligations. We examine these issues in more detail in Section 4.

1.1.3 *Management by results*

36. The introduction of the market-type mechanism into a tender system is automatically associated with contractual agreements between principal and provider, rather than administrative instructions. This implies that performance goals are adequately formulated and are translated into measurable indicators. These can relate to inputs and processes, as well as to outcomes. The ideal outcome of job brokerage and reintegration is placement in a job. The principle of management by results is that of less management of inputs or processes. Financial incentives are directed more towards the result because market competition implies that the market players have room for manoeuvre: they themselves must be able to decide how to achieve the desired outcomes. If market signals operate correctly, process control is deemed superfluous and the market itself ensures quality. Moreover, market signals and management by results can reinforce one another in providing incentives (Verhoest, 2002). So who decides which components and activities should be included in a trajectory? According to the logic of market operation and management by results, this is more a job for the provider than for the (public) body that refers the jobseekers.

37. Two basic principles can be derived from this for tendering:

- The government makes extensive use of (financial) performance incentives, while seeking to prevent providers from selecting their own clients because any adverse selection (creaming) distorts measured performance.
- The government either accepts that providers may fail to provide services to certain clients referred to them, or sets minimum service standards.

1.2. *Market competition: motives and preconditions*

1.2.1 *Motives*

38. Governments opt for market competition in the field of job brokerage and activation in variety of contexts and for various motives. Their main argument for the use of a tender system is that this can improve services and make them more efficient. A tender system must contribute to this *via*:

- The invitation to compete: competition is good for efficiency and quality and it encourages innovation, according to the advocates of market competition.
- The nature of private organisations: unlike traditional public organisations, private organisations are more flexible, less bureaucratic and more service-oriented, according to current thinking.
- The choice for the client: if a client himself can choose between various providers, this contributes to good matching between service and client and, ultimately, to more motivated clients.

39. In addition, market competition can contribute to meeting the needs of a greater range of jobseekers, from the point of view of the activation goal and the “comprehensive approach”. It offers the possibility of expanding capacity in the short term without the PES having to expand its staff. The introduction of a tender system therefore also means relief from the pressure which would otherwise fall exclusively on the PES.

40. Besides the policy rhetoric, one should not forget that a market-like transformation of systems always emerge from a mix of economic and political factors. In the case of Australia and the Netherlands, the political rationale involves several motives: cost savings (as in Australia), dissatisfaction with the government provider (in both countries there was a perception of a poorly-performing Public Employment Service), making the Public Employment Service “contestable” (as with the New Deal employment programmes in the United Kingdom) and exclusion of social partners from implementing bodies (quite obvious in the Netherlands).

1.2.2 *Conditions for market competition*

41. In a tender, wide variation is possible in the formulation of contracts. The ultimate aim is placement in a job. Contracts are formulated by target groups and by types of services. The development of a market requires the following market conditions: a varied playing field, low barriers to entry, a level playing field (competition on equal terms) and maximum transparency.

1.2.2.1 *Creating a varied playing field*

42. One important facet of market competition is the progress from a single-actor system (with the PES in the main role) to a multi-actor system. The organisations making up the playing field are in principle private organisations. These can be subdivided into:

- *National profit-making organisations*: for them, the market for government contracts is in addition to their commercial activities. These organisations have less trouble with the transaction costs of bidding for new contracts and start-up costs in new locations because they are equipped for this.

- *Nationally organised non-profit organisations:* for these organisations too, a new public service contract means an extra expansion of already-extensive services. They too can use their initial financial base to compete in a tender and to start up new services.
- *Smaller niche players:* in the case of profit-making organisations, this usually refers to service provision in certain market segments; for non-profit organisations it means a specialised service for certain target groups in well-defined locations based on their own methods. Smaller organisations find it much more difficult to compete in a tender system (because they are limited in terms of location, staff, financial reserves, infrastructure, etc.).
- *Public players:* the most important public player is the former PES which is given corporate status and responsibilities and then required to compete for contracts. In addition, schools or local public institutions sometimes surface to a limited extent. Purely public organisations logically take a subordinate position on the developing market. The privatisation of (part of) the former PES was highly traumatic both in Australia and in the Netherlands.

43. The development of a tender of any significance usually also leads to the formation of new private organisations, created specially as a result of the tender. Joint ventures and new cooperative partnerships are also among the possibilities, since a more complete product can be offered through the combination of various forms of expertise. This can be a specific area of attention in the tender, in the sense that the tender does not impose restrictions and providers are free to decide on collaboration and subcontracting. It can also be an asset for the provider, especially when it comes to allocation of the entire package in a given location to one single provider (e.g. Employment Zones in the United Kingdom).

1.2.2.2 Low barriers to entry

44. For a country still in the early stages of tendering, the players' market does not emerge spontaneously. Access to the market is a major concern. Private organisations are not eager to compete, and the conditions have to be made attractive enough to encourage entry to the market. New potential providers also have to be given a genuine chance to enter the market. This requires an extremely careful balance in the formulation of the call for tenders and of contracts. Generally, investment is required to encourage sufficient numbers of potential providers to compete. Some shrinkage will automatically take place at subsequent stages, as a result of the inherent dynamics towards market concentration and the pursuit of performance improvement.

45. In the Flemish context, over 800 intermediate actors are active. Not all 800 – certainly not the private profit-making actors – will consider stepping into the market as a potential provider when market competition is in its early stages. We may assume instead that a certain reticence exists in Flanders based on previous experiences and the lack of clarity surrounding the long-term policy choices. An important function of the tenders in the early period of market operation is therefore that they “address” a sufficiently large number of players. In the longer term, we can also recommend broadening the initial market competition to other activities (e.g. relocation, training). The advantage of this is that sub-markets can emerge. At the same time, vigilance is required to ensure that excessive market power does not fall into the hands of the (sole) principal.

1.2.2.3 Conditions for fair competition

46. Fair competition requires guarantees of a level playing field and impartiality in the selection and formulation of quality requirements. In the Flemish context, a first issue is the position of the VDAB provider. The previous government (1999-2004) intended to split up the organisation, but abandoned this plan because of ideological resistance by the CEO of the VDAB and by the unions. This means that the

Flemish PES will act both as commissioning body and as executing party (outside the context of the tender for the “comprehensive approach”). Here, we can distinguish two situations: the VDAB does not participate in the market or the VDAB does participate. If it is a non-participant, the VDAB in no way acts as provider of contracts included in the call for tenders. Excluding the VDAB from participation would be contrary to the principle of non-discrimination. If the VDAB participates, the contracting authority may not give it preference over other organisations with which the VDAB is competing, and no cross-subsidisation from other government resources, which would allow the government organisation to bid below the minimum price, can be allowed. In either case – VDAB as non-participant or as participant – the VDAB principal will have to guarantee neutral treatment of the tenders submitted. External supervision of this aspect is necessary.

47. One risk of tender systems lies in the barriers to entry resulting from the use of quality standards and experience as selection criteria. Particularly in an emerging market, it is recommended that quality standards be defined sufficiently broadly using quality labels, so that organisations from different market niches can enter without burdensome conditions.

1.2.2.4 Maximum transparency

48. The starting point for market competition is that the market must be transparent for all parties involved (principals, providers, clients and employers). For this reason, the tendering procedure has to be correctly designed. All parties have an interest in receiving detailed information about contracts, selection and award criteria, prices and quality.

1.2.3 *Competition is not automatic*

49. A tender system stands or falls by the degree of competition between the various providers. The degree of competition depends on various factors, such as the number of bids per contract, contracting party turnover, the price mechanism, the role of price in the selection of contracting parties and the perception of the contracting party of the chance that he/she will lose the contract.

50. In an ideal market, the price reflects the value of a service to the consumer. From experience with market competition in reintegration, price never seems to be the most important criterion. In the current round of tendering in Australia, only fixed prices are used, as in the New Deal tenders in the United Kingdom. In previous rounds (Job Networks 1 and 2) in Australia, free prices were used to some extent, but for the more intensive services (for more difficult target groups), fixed or minimum prices were already being used. Quoting minimum prices in the call for tenders seemed to lead to everyone bidding at the minimum price. By contrast, in the Netherlands, free pricing is applied. Price was not the most important criterion in any of the countries, including the Netherlands.

51. This weakening of the price criterion results from the fact that price competition is not the only objective. Some balancing with other objectives (*e.g.* interest in diversity between providers; interest in performance) is needed. In other countries, this leads to an automatic extension of contracts for the providers with the best performance (in Australia and the Netherlands) or a “right of first selection” (in Wisconsin) and the creation of a larger number of tenders which means that non-selected providers have a second chance (New Deals in the United Kingdom; quarterly UWV³ tenders in the Netherlands). All this does not imply that the price no longer plays a role; the general lesson is that prices should not be too low at the expense of quality.

3. UWV: Uitkeringsinstituut Werknemersverzekeringen (Employees' Insurance Administration Agency).

1.3. *Conclusion*

52. The concept of market competition in the fulfilment of public services is often used in a broad sense. In this paper, we use the term in its specific meaning of competition, operation of the price mechanism and the involvement of private players. In designing a tender system, it is important to consider the requirements for the operation of a quasi-market in a highly systematic way. The encouragement of market development involves creating a varied playing field, keeping barriers to entry low, creating the conditions for fair competition and aiming for maximum transparency.

2. **MODELS FOR TENDERING IN THE “COMPREHENSIVE APPROACH”**

53. When designing a tender, wide variation is possible in the formulation of contracts and contracted services. Below we start with the distinction between the flow of new jobseekers (the so-called “preventive” group, including all short-term unemployed) and the stock of long-term unemployed people (the “curative” group). Since the curative target group is the goal of the “comprehensive approach”, we distinguish models according to the extent to which the process of individual case management and combination of services (the “trajectory”) is left to external market players.

2.1. *Distinctions between the “preventive” and “curative” groups*

2.1.1 *New jobseekers*

54. An important economic principle in the demarcation of tenders has to do with the range and homogeneity of the target groups. Different contracts are issued for different groups of clients, each of a certain size. There are two reasons for this: the costs of administration and implementation of a trajectory fall when there are more clients, and the provider can set prices more keenly because the risks are better distributed. Contracts therefore have to have a certain minimum size in order to work cost-efficiently. On the other hand, a certain degree of homogeneity within each client group is also desirable, because this leads to a more smoothly operating market. Significant advantages may arise from working with homogeneous target groups, such as a better deployment of the necessary expertise, more opportunities for specialisation and lower costs. Moreover, this reduces the degree of creaming and parking – *i.e.* deliberately not investing in services for certain clients – for higher-risk target groups. Finally, tendering for sufficiently large and homogeneous groups of jobseekers makes it possible for jobseekers to choose between several providers and for benchmarking of results to take place between the various providers with a comparable contract.

55. Generally speaking, the use of large relatively homogeneous target groups is most likely to succeed with new jobseekers, who flow into a job relatively easily (Heyma *et al.*, 2003). The great difficulty with demarcating target groups is that the information available in advance about the client is limited to a number of objective individual characteristics and related labour market characteristics. This problem is more important for the stock of long-term jobseekers.

2.1.2 *Long-term unemployed*

56. Two factors stand in the way of the aforementioned economic principle for jobseekers who have already been unemployed for some time (usually 12 months or longer). Firstly, it is more difficult to compile groups of jobseekers that are sufficiently large and homogeneous. Secondly, the labour market chances of the curative target group are (even) more difficult to estimate based on objective characteristics because multiple problems are more often at play. In the curative target group, a complex interaction often occurs with other negative factors such as those resulting from remaining unemployed (loss of motivation, skills and attitudes, etc.) and factors in other areas of life (loss of a network, health problems, etc.). In a biographical context, various negative developments work together and reinforce one another. A

cumulative process of setback, disappointment and loss can have a far-reaching influence on self-responsibility and attitude to reintegration (Den Haan, 2002). These kinds of multifaceted problem are manifested in different ways for each client. For them, a reintegration trajectory which takes the interrelation of various factors into account is often the only remedy. Significant heterogeneity is also present in the preventive group, but the difference is that the jobseekers in the curative group – who are at a greater distance from the labour market even in the preventive phase (short-term unemployment) as a result of many risk factors – have seen their distance increase still further under the influence of continuing unemployment.

2.1.3 *Division of the curative group*

57. It follows from the above arguments that the division of the curative group in advance into homogeneous target groups based on objective characteristics is less relevant. Rather, a thorough diagnosis should be undertaken to decide on the trajectory to be followed.

58. When jobseekers are divided into separate groups for a tender, at one extreme there can be multiple identical “tranches” (as in the Netherlands) within a certain target group and/or labour market region, and at the other extreme specialised contracts can be made for a unique target group and/or labour market region.

59. In the first scenario, we are aiming at the presence of various providers who are awarded the same type of contract. This allows jobseeker choice and benchmarking between providers – although, to the extent that some jobseekers may prefer a provider whose employment performance is poor, jobseeker choice might conflict with the principle of provider selection according to relative employment performance. This scenario presupposes a certain scale and versatility of the providers. The disadvantage is that it offers less room for smaller, specialist providers. This disadvantage can be overcome by explicitly allowing the providers who have contracts with the principal to subcontract to other providers.

60. In the second scenario, we are aiming at the presence of complementary players who have been selected because of their competence for the target group problems described (*e.g.* addiction problems). In this way, the smaller specialists can come into their own, but this scenario also has its disadvantages. It risks leading to stigmatisation of the jobseekers in question and to a complex market of small niche players.

2.2. *Distinction by functions*

2.2.1 *Foreign variations*

61. In other countries three models can be found:

- The model in which both the placement and reintegration function and the benefit payment function are implemented by private players: examples are certain counties in the US (*e.g.* in the state of Wisconsin) and certain programmes in the United Kingdom (Employment Zones).
- The model in which the job brokerage and reintegration functions are put out to tender and the payment function is still fulfilled by a public body. The main example is Job Network in Australia.
- The model in which only the reintegration function is put out to tender and job brokerage remains a function of the public “gateway”. Examples include the Employees’ Insurance Administrative

Agency (UWV) and municipalities in the Netherlands, and New Deal programmes in the United Kingdom.

The second and third model are more widespread than the first model. They can have a number of gradations, depending on the role of the gateway and the case management. In Australia, the gateway function (*i.e.* the registration of jobseekers and their referral to providers) is limited. In several Dutch municipalities, the function of case management is still in the public domain. However in most cases complete trajectories are put out to tender, not trajectory components. The “trajectory counsellor” or case manager is therefore also employed by the provider.

2.2.2 *Models for the curative target group*

62. The first task in preparing for a tender is to examine to what extent it is desirable to differentiate the contracts by target group, type of service, location and deadline, without lapsing into fragmentation and prescriptive contracts. We can distinguish various models as the formulation of contracts evolves from well-defined trajectory components into fully integrated trajectories. A trajectory can be seen as a planned sequence of services, structured around the following core tasks:

- *Preliminary phase*: this may include recruitment actions, as well as actions to address certain barriers before job search can start.
- *Intake*: the screening and assessment of the client, resulting in an action plan and a reintegration agreement with the client.
- *Implementation*: the delivery of services as stated in the action plan.
- *Case management*: the process of guidance through the different stages of a trajectory.
- *Follow-up*: services to the client and/or the employer after placement in a job.

63. Figures 2.1 to 2.4 show how the four models correlate with the various core functions of a trajectory. The first three models take into account the political-administrative constraints in Flanders, which specify that intake and trajectory definition are inalienable public tasks for the PES:

- *Model 1: putting individual trajectory components out to tender*. The formulation of contracts in the first model is relatively simple: we can think of products (“components” or “actions” within components) such as help with job applications, training for a well-defined qualification, attitude training, etc. Monitoring of the trajectory, placement and follow-up are carried out by the principal. If necessary, case management of the jobseeker can also be put out to tender – this takes us to the second model, which can be regarded as an extension of Model 1.
- *Model 2: putting sub-trajectories out to tender*. In the second model, we are not dealing with a separate product, but with several products which together form a substantial part of a trajectory: a sub-trajectory. A sub-trajectory can be defined as a trajectory consisting of at least two components. The three prototypes of sub-trajectories are:
 - The entire implementation part of a trajectory, such as job-search training, vocational training, or work experience.
 - The trajectory that consists of case management (ongoing interviews and active placement efforts) and follow-up after placement.

Figure 2.1. **Model 1 and the trajectory**

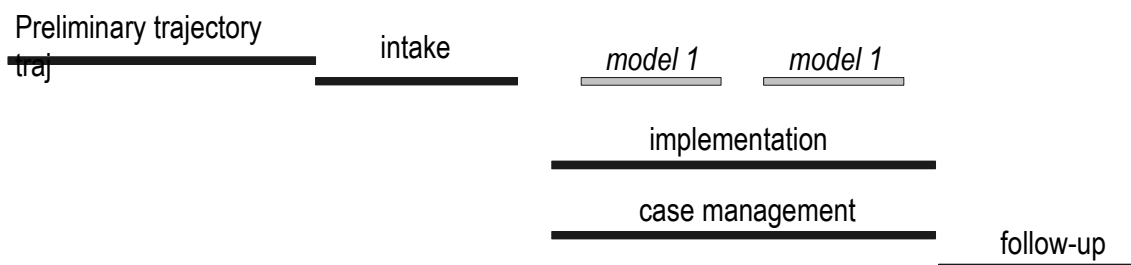


Figure 2.2. **Model 2 and the trajectory**

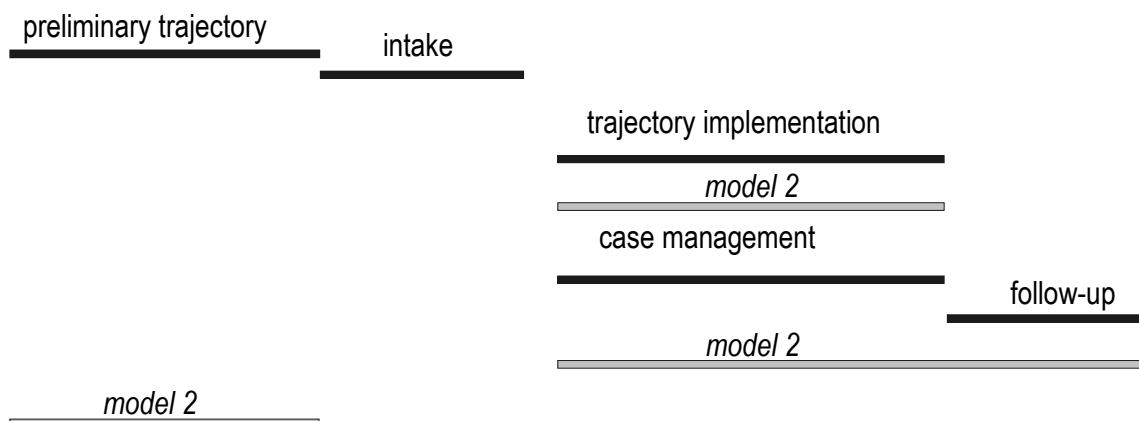


Figure 2.3. **Model 3 and the trajectory**

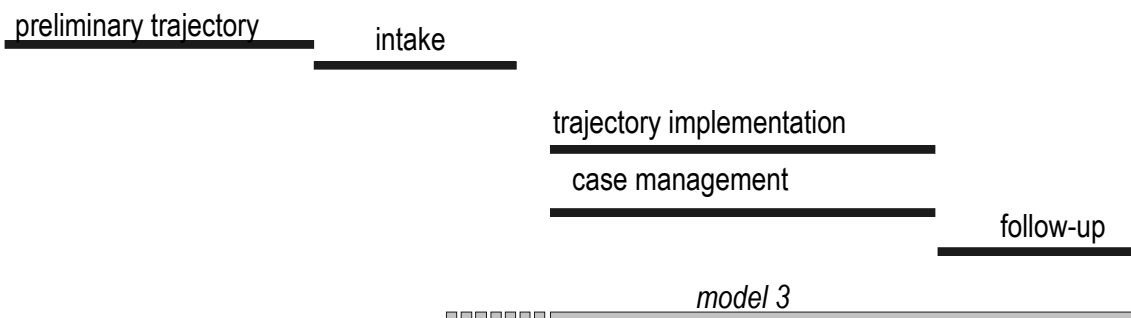
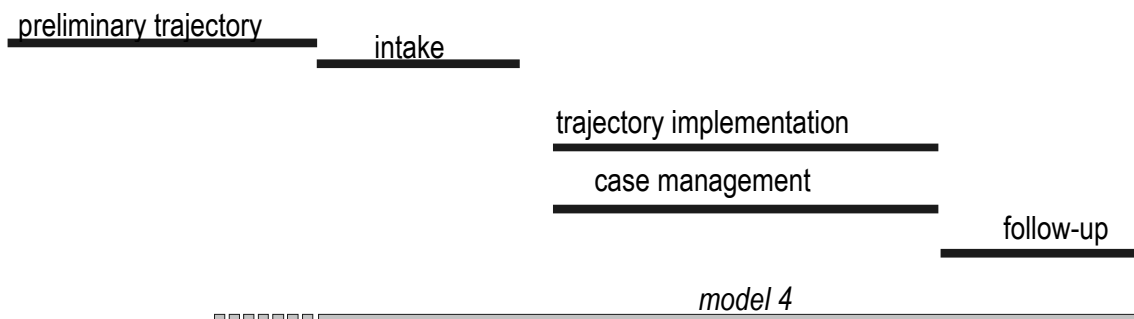


Figure 2.4. **Model 4 and the trajectory**

- The preliminary trajectory, preceding a trajectory aimed at work, consisting of active recruitment and actions to address barriers to employment.
- *Model 3: putting integrated trajectories out to tender, possibly including far-reaching intake.* In the third model the entire trajectory, starting after initial intake which is implemented by the principal, is put out to tender. However the provider may continue the intake process. In a number of cases the trajectory cannot immediately be clearly defined. Before the trajectory starts, or during it, it may become clear that the client needs a different type of service, so that referral back to the principal is appropriate. This body can then refer the person in question on to another provider.
- *Model 4: putting integrated trajectories out to tender, including complete intake and trajectory definition.* The fourth model is a variation on the third model, but allows the contract put out to tender to start at the beginning of the process. Intake is left up to the provider, which itself has to formulate and implement an action plan and trajectory for each jobseeker, without any option of referral back to the principal. Consequently, the provider is responsible for recruiting other bodies as necessary over the course of the trajectory.

64. Examples of each of the four models outlined can be found in other countries. Model 1 and, by extension Model 2, are in fact fairly common in practice, including in Flemish PES practice, for example for IT basic skills or guidance for work-experience jobs (see Section 3). Model 3 is the mainstream model in the Netherlands (in the UWV tender), Australia (Job Network) and the United Kingdom (New Deal programmes). Model 4 is recognisable in a purer form in certain municipalities in the Netherlands, and some localities in the United States (where contracted providers determine the eligibility of applicants for cash welfare benefits).

Table 2.1. **Core functions of a trajectory and models for tendering**

	Model 1 Trajectory components	Model 2 Sub-trajectories	Model 3 Integrated trajectories poss. with far-reaching intake	Model 4 Integrated trajectory with full intake
Type description	Products: application help, specific training, etc.	Three types: entire trajectory implementation; preliminary trajectory; case-management	Entire trajectory (depending on evolution in trajectory interpretation)	Entire trajectory
Preliminary phase	Principal	principal (or provider, depending on formulation of contracts)	principal	Provider
Intake	Principal	principal	principal: 1 st intake Provider: continuation	Provider (administrative role principal)
Trajectory guidance	Principal	Provider: sub-trajectory principal: complement	Provider (principal + other providers during referral back)	Provider
Trajectory monitoring	principal from start to finish; many transitions between components	principal from start to finish; fewer transitions	principal: start of process (+ poss. transfer to another provider)	Minimal

65. The four models can be further interpreted in terms of the allocation of the preliminary trajectory, intake, guidance, follow-up and monitoring of the trajectory in the tendering procedure (see Table 2.1). The four models go in an ascending line. In Model 1 the principal continues to play an important role at key moments in the trajectory; in Model 4 they are all left to the provider. The advantage of Model 1 is that the public service principal retains a good overview of the process, but the disadvantage lies in the many transitions between components in the trajectory. The model also assumes a trajectory that is relatively easy to define based on the diagnosis of a simple problem. By contrast, Model 4 lends itself better to trajectories that have to remedy multiple problems *via* intensive guidance of and collaboration with specialist bodies or service providers. An innovative approach is the ideal approach for this type of difficult target group. This is why the fourth model relies to a maximum on the creative freedom of the provider.

66. Model 3 differs fairly radically from Model 4 in this respect. Model 3 assumes a standard approach, for a target group that is fairly difficult to reintegrate. If specific needs arise, the provider can fall back on the possibility of trajectory redefinition and referral back to the principal (in this case the initial intake body), accompanied by a recommendation for a different trajectory. The provider may possibly be partly paid for this recommendation at the time of transfer to another provider.

67. Model 2 can be regarded as an intermediate model. As with Models 1 and 3, regular consultation with the principal is needed at the beginning of the trajectory and at some points of transition between providers. Responsibility for case management lies partially with the provider, as in Models 3 and 4, but only within the limits of the described sub-trajectory. The principal still plays an important role in monitoring the trajectory, as in Model 1.

2.3. Conclusion

68. In this section, we have examined the possible models for implementing the “comprehensive curative” approach within the current political-administrative framework in Flanders. We believe that the fact that the curative target group was chosen for the application of market competition *via* a tender system requires special care to be devoted to defining the trajectory plan, to case management and to placement follow-up. These functions often turn out to be more complex in practice than for the preventive target group, and standard solutions are therefore not always adequate.

69. One specific question concerns the place of qualifying training in a trajectory. In our typology, training can have a place in each of the four models, including Models 3 and 4. This depends on need and the way in which the trajectory is interpreted. Training may not be needed for every jobseeker, yet it must still be possible to include the use of training in the price calculation in advance. A dilemma therefore arises between the principle of pricing in advance and the principle of allowing revisions to the trajectory plan. We will return to the solutions to this dilemma in Section 4.

3. FROM OUTSOURCING TO TENDERING

70. In many countries, outsourcing and the putting-out to tender of reintegration services for jobseekers are no longer unknown phenomena. How do these applications differ from the market-type mechanism discussed here? In this section, we first examine the difference between outsourcing and tendering. We then briefly outline the legal forms of tendering.

3.1. Difference between outsourcing and tendering

71. In the policy philosophy of those who advocate tendering for the reintegration of jobseekers, strong emphasis is placed on market competition. From a purely administrative/legal point of view, outsourcing and tendering are the same: a service for a third party is outsourced, and the legislation

regarding government contracts is applicable. But there are characteristic differences related to the three basic principles underlying the market-type mechanism (see Section 1). These are shown in Table 3.1.

Table 3.1 **Characteristics of outsourcing versus tendering: typical split**

Characteristics	Outsourcing	Tendering
Model	Same government body as provider and principal (single actor model)	Split between principal and provider (multi-actor model)
Government role	Role as provider	Shift from role to control and basic services
Competition	Market players have additional role Pragmatic management choice: "make or buy", capacity considerations	Additional role as provider Political principle choice for market competition
Programme of requirements	Highly detailed	Not very detailed
Control	Significant government intervention: control of the market	Significant market control: control by the market
Legal basis	Legislation regarding government contracts	Legislation regarding government contracts

72. In outsourcing, government intervention *via* the public provider remains significant. From a management perspective, this government body is making a "make or buy" consideration, resulting in a detailed programme that is expected from a third party. In tendering, the government has chosen in principle to make room for external providers, while its own role shifts towards that of principal and towards those tasks that are not left to the market (such as providing benefits and intake). In other words, outsourcing is about control of the market, while tendering is to a certain extent about control by the market.

73. Many countries have a system with a public provider (the PES) which sometimes makes extensive use of external parties for implementing components of the services. Increasingly, this PES itself is given corporate status, and then contractually piloted by the competent authority, based on management by results. However, this PES model is clearly distinct from the tender model (where typical examples including Australia and the Netherlands) or a voucher model, because the PES remains the preferred supplier for government on a permanent basis. In certain countries, a combination of models is seen, such as in the United Kingdom, where the PES is required to contract out some programmes (*e.g.* New Deal) and the Department of Work and Pensions is responsible for the tender system used for other programmes (*e.g.* Employment Zones).

3.2. Forms and rules of tendering

3.2.1 Award methods

74. Various methods of awarding a contract exist, ranging from public tendering to a negotiation procedure without publication. A tendering authority is not entirely free in its choice of award method. For instance, a negotiation procedure (with or without publication) is only permitted in the cases described exhaustively by law.

75. With tendering, it is first of all possible to choose whether or not to work with a phased procedure. In a single-step procedure, every interested party has the opportunity to submit a tender. In a two-phase procedure, interested parties are first invited to make initial submissions (expressions of interest). Eligible parties are identified, based on previously established criteria, and these preselected

parties are then requested to submit a detailed tender (Struyven *et al.*, 2002). In other words, first the tendering authority makes an appeal for candidates: who is interested in submitting a tender? Then only selected candidates receive the specifications and a request to submit a detailed tender within a certain period.

76. A second element that is decisive in the choice of tendering procedure is the award criterion. One possibility is to make a choice on the basis of one and only one criterion, *i.e.* price. However, if the tendering authority wants the desired quality at the lowest price, the specifications must be able to describe the expected outcome extremely accurately. A second possibility is to use multiple criteria. In this case, price usually still plays an important role, but alongside other criteria which are more closely related to the quality or creativity of the tender and/or the speed of completion of the contract. In the economic literature, a similar distinction is made between a beauty contest and an auction: in the former, bidding is by price and quality, in the latter only by price (Dykstra and De Koning, forthcoming).

77. A third element in the choice of tendering procedure is the threshold amount. In EU countries, the Services Directive and the principles of the EC Treaty regarding threshold amounts and degree of openness apply.

3.2.2 *European legislation*

78. The Services Directive⁴ applies to tenders worth € 236 900 or more. The services in question are covered by the limited regime (Annex 1B) of the Directive, which states that only a limited section of the Directive is applicable (*i.e.* Articles 14 and 16). Publication in advance and the call for tenders are not required; however, the formulation of the call for tenders may not contain discriminatory provisions which exclude certain service providers in advance and, at most 48 days after the award, an award report is to be sent to the Office of Official Publications of the European Communities. As well as the Services Directive, the transparency requirement pursuant to the EC Treaty⁵ is applicable. This deals more specifically with the principles of non-discrimination, equal treatment and transparency. This means that, for all services, including those under the threshold value of € 236 900, no discriminatory provisions may be included in the formulation of the call for tenders. According to the interpretation by the European Commission of the jurisprudence of the European Court,⁶ a “suitable degree of openness” must be practised regarding government contracts, even if the directives in this respect are not (fully) applicable (SZW, 2003). The European Commission puts it as follows: “Transparency can be guaranteed by any suitable means, including publicity. The suitable means depend on and take into account the specific aspects of the relevant sectors. Transparency can be guaranteed, for instance, by publication of a (preliminary) announcement in daily newspapers or specialist journals or by being displayed.”⁷ The Dutch government therefore advises principal bodies (UWV, municipalities) in the reintegration sector to work *via* advance publication (by announcements in daily papers or journals or other suitable forms of publication) and to include such information as may be needed by potentially interested parties in order to judge whether they want to submit a tender, as well as the description of the nature and scope of the tender. This is because, according to the Dutch Ministry, it is in the interests of potential submitters to create openness so that the services market for competition is opened up and the impartiality of a tendering procedure can be tested. Note that it does not follow from these principles that tenders have to be requested, nor that subsequent notification is necessary (although the latter is compulsory for calls for tenders above the threshold amount). The

4. Directive no. 92/50/EEC, as amended by Directive no. 97/52/EC.

5. Official Journal C 325 of 24 December 2002.

6. Including the Telaustria decree of 7 December 2000.

7. Interpretive announcement by the Commission about concession agreements in Community law, Official Journal C 121 of 29 April 2000.

interpretation of the “suitable degree of openness” required under the principles of the EC Treaty is therefore increasingly decisive for tendering policy.

3.3. Conclusion

79. In conclusion, it appears that various intermediate forms of outsourcing and tendering currently exist. Most practices involve product financing, and not outcome financing. The provider invoices for services rendered, and not on the basis of outcomes. Placement standards are usually relatively low, so that strong performance incentives are not really an issue. Processes are usually specified in detail. Control of the process by the principal is far-reaching. The greatest differences between existing practices and the tendering models in Section 2 are in the detailed specification of processes and the financing model. It should therefore come as no surprise that the presence of the private sector, the number of new players on the market, the ease of access to the market, the operation of the price mechanism – the conditions for market competition, as explained in Section 1 – are limited in countries with a PES model. These factors therefore constitute the real test of the success or failure of the intended market competition in the “comprehensive curative” approach.

4. DESIGN CHOICES IN TENDERING

80. It is clear from previous sections that the choice of a more far-reaching form of market competition based on a tender system – as is currently anticipated in Flanders for the “comprehensive approach” – involves political as well as technical issues. During development into an operational model, many new questions arise, each of them calling for new choices such as how to describe contracts, how to define the outcome to be achieved, how to avoid market competition being curtailed in advance and make sure that quality improves, in particular for the difficult target groups? These are what we can refer to as the design choices that have to be made. The greater the determination to actually (help) bring about a form of market competition, the more the current principles (with respect to formulation of contracts, standards, financing, data communication, monitoring, audit and quality control) must be rethought and new choices made. Design choices must implement the policy goals in a consistent manner.

81. In Section 1, we pointed out the dual objectives the government has during tendering: achieving the policy goals (relating to the “comprehensive curative” and preventive approaches, sustainable integration, underprivileged groups, bottleneck vacancies) and achieving the principles of market competition based on easy entry, competition and transparency. The many goals result in dilemmas in the design of the tender. These include the trade-off between the proven experience of providers and low costs of entry to the reintegration market; the trade-off between transparency of service quality (achieved by awarding the various links in the trajectory separately where possible) and a focus only on the final outcome; the trade-off between differentiating contracts and the need for mutual comparison of performance (benchmarking), etc. (see *e.g.* Struyven *et al.*, 2002; Svensson *et al.*, 2003). Below, we discuss design choices with respect to: referral of jobseekers; deployment of training and work-experience instruments; definition of outcomes, pricing and payment structure; combination of government contracts and market activities; quality, monitoring and quality labelling; and privacy and sanctioning. So far as possible, we apply the principles and design choices to the tendering models developed in Section 2.

4.1. Referral of jobseekers

82. Every process of guidance for the jobseeker starts with intake and assessment. Flemish policymakers have chosen to place responsibility for the intake and referral of jobseekers to a trajectory component or a succession of trajectory components with the principal, which provides the services which are classified as universal. The principal is responsible for the referral of a sufficient number of clients to

the contracted providers. The principal is also responsible for ensuring that clients are not incorrectly referred. The quality of the intake processes needs to guarantee this.

83. Various considerations play a part in the referral of clients. From the provider's point of view, the issues are whether they can choose among clients (either by deciding themselves whether to accept referred clients, or by self-recruitment) and/or whether a guaranteed number of clients will be referred to them, ensuring that their contracted capacity is filled. From the client's point of view, the issue is the jobseeker's freedom to choose a particular provider. From the principal's perspective, the issues include responsibility for the intake and referral process and for any incorrectly-referred clients.

4.1.1 Choice for the provider and inflow guarantee

84. If the provider can choose which jobseekers are eligible for a trajectory, it is more likely that the most employable clients will be creamed off, particularly if the payment structure gives weight to the ultimate placement result. If the provider has no choice at all, it is likely that the provider will make less effort for the less promising clients, who then become "parked". This can be counteracted by allowing the possibility of referring back and re-assessing clients.

85. In other countries, providers have not been too fussy about accepting candidates referred to them. In Australia, the possibility of re-assessment is only requested for a limited number of clients (Productivity Commission, 2002, Chapter 9.6). For the UWV tender in the Netherlands, it was in theory possible for the provider to reject referred clients, but in practice this did not happen in the first tender (Struyven and Steurs, 2002). In this case, the Dutch principal did not want to give providers an inflow guarantee. The specifications stated that giving choice to clients prevented this. A lack of efficiency in shepherding clients adequately through the gateway was probably also an influence. In the absence of guaranteed inflow, risk is shifted onto the provider.

86. A middle road is to guarantee a certain percentage of the contracted capacity – this was the case in Australia under Job Network 2 (from March 2000 to June 2003). Above this threshold, referral can be controlled on a flexible basis. This allows the principal to reward efficient providers with additional referrals (the reverse then applies to poor providers). This is a means of promoting competition for performance. In the third and most recent round of Job Network, the government intends to transfer business towards providers with high "star ratings" and away from those with low ratings.⁸ An alternative approach would be to allocate more business to providers who attract more jobseekers through client-choice mechanisms. This would encourage providers to market their services to jobseekers. If client preferences are used as the only determinant of the allocation of business to providers, the result will be similar to a voucher model of competition, in which jobseekers are given a voucher which they can spend with any provider on an officially-approved list.

4.1.2 Freedom of choice for the jobseeker

87. Individual freedom of choice is an important goal of quasi-markets. If jobseekers can choose they will feel more involved and take a more responsible attitude. However, practice in other countries shows that the lack of genuine options is one of the weaknesses of the tendering models developed so far. In Australia, jobseekers only make a choice in 20% to 30% of cases (in other cases the public gatekeeper, Centrelink, makes the referral). In the three successive Dutch UWV tenders since the first contract year in

8. The scope of contracts in the third period of Job Network (starting 1 July 2003) is no longer determined based on a fixed contractual capacity, but on a contractual share of the flow of new jobseekers within a certain labour market region. From July 2004, provider Star Ratings will be a key criterion in assessing the potential reallocation of business within each Employment Service Area.

2000, more options have been made available by splitting up sufficiently large target groups, which are specified by region and in some cases by industrial sector, into a number of “tranches”. A reintegration company cannot be awarded more than one tranche per region. It is not known to what extent the jobseekers actually make a choice.

88. In order to make freedom of choice possible, it is not enough simply to give several providers a contract for the same type of client. In addition, jobseekers have to be adequately informed about the services and the performance of providers. Moreover, the possibility can be provided in principle for jobseekers to switch providers. This also creates a basis for more competition between providers. However, if clients can switch providers frequently, providers will not be able to impose requirements on clients for attendance at interview, participation in training, etc., and employment services (training, etc.) may generate employment outcomes after clients have moved on to another provider. To minimise these problems, it may be necessary to oblige jobseekers to make a relatively long-term commitment.

89. Table 4.1 shows how the choice of a fixed or flexible guaranteed capacity can influence the level of incentives for efficiency (*via* the incentive of additional referrals for good service providers) and competition between providers for jobseekers, and can increase freedom of choice for jobseekers.

Table 4.1. **Fixed or flexible inflow capacity correlated to competition and freedom of choice**

Inflow guarantee	Incentive for efficient service providers	Competition for jobseekers	Freedom of choice for jobseekers
Fixed	None	Limited	Limited
Flexible	Additional referral	Broad	Broad

4.1.3 *Referral back of clients*

90. Whatever the freedom available to the provider regarding taking in candidates, the provider is dependent on the principal's initial intake process. The principal must ensure that sufficient candidates are referred and that these referrals are made correctly and on time. The fact that inflow of clients takes place through one single (in this case public) gateway undoubtedly has several advantages: greater cost efficiency due to the advantages of scale; better guarantee of an independent intake; the possibility of referral on to the complete range of labour market programmes; more equal treatment because inconsistencies between different organisations are avoided. Independent intake and equal treatment are preconditions for the comparative measurement of placement performance, because when providers can choose their own intake or receive clients through unrelated gateways there is no guarantee that their client groups will be comparable.

91. Nonetheless, in practice the management of intake and assessment may be difficult, particularly for the curative target group (see Section 2). In some cases, a standardised and brief intake procedure without intensive personal contact will not be enough. Sometimes, the jobseeker classification instruments used are also found wanting. A general intake instrument is not intended to provide a highly-accurate individual diagnosis, but rather to screen referrals to a suitable trajectory or programme. It may therefore be expected that the majority of jobseekers will be correctly referred to a provider, taking into consideration the range of services this provider is contracted to offer. However, significant errors will occur in some individual cases.

92. Referral problems can be imagined at three levels:

- Firstly, it may be that *the referral does not match the trajectory offered by the provider*. We can think, for example, of a jobseeker who first needs a literacy course before being able to start specific training. This is a problem resulting directly from the nature of the instruments (literacy is not specifically screened) and the brevity of the principal's intake procedure.
- Second, *the referral may no longer correspond to the needs of the jobseeker*. After all, it is possible that the jobseeker is no longer looking for work or has already taken steps himself to rectify certain problems. This problem is the result of a lag between the time of intake and the actual start of the trajectory with the provider.
- A third form of incorrect referral can be that *the principal is deliberately referring jobseekers wrongly*, for example to help the provider achieve sufficient numbers (see inflow guarantee) or to get rid of difficult cases. The Commonwealth Employment Service in Australia during the period 1994-96 was accused of systematically referring the more difficult clients on to private players (OECD, 2001).

It should be evident that these problems can never be entirely ruled out. A tender process will therefore have to make allowances for the problem of incorrect referrals. This does not mean that no further efforts can be made in the meantime to refine the instruments used in order to increase their predictive value. However, the risk of an inappropriate referral is still present. For this reason, the trend in some other countries is towards slightly less use of classification instruments for referral (*e.g.* Australia).

93. The tailored approach to jobseekers therefore clashes in practice with a standard intake model. For this reason, it is recommended that the possibility of referring candidates back be envisaged. This can take various forms, from referral back under strictly limited conditions to a flexible formula of referral back. A flexible formula is at first sight a deterrent but practice in other countries shows this to be unfounded, given the interaction with other choices, in particular concerning the inflow guarantee. Our conclusion is that a flexible formula deserves preference, particularly in combination with flexible inflow capacity. This should not be confused with self-recruitment or spontaneous entry (see Subsection 4.4 below).

4.1.4 *Application to the models*

94. In each of the various models, it is in theory possible to work with a fixed or flexible capacity guarantee and with strict or flexible referral back.

95. As far as the inflow guarantee is concerned, working with a fixed guaranteed capacity is made easier by the fact that we are dealing with the long-term unemployed. This is a target group whose outflow chance will probably remain small in the near future, which means that the entire group is reasonably well known both in terms of size and in terms of characteristics. It is more difficult to forecast which trajectories will be needed. This is applicable especially to Model 2, where the need for well-defined sub-trajectories (linking components) is not easily determined by the principal in advance. Model 3 involves fewer problems in this respect if it leaves more room for the provider himself to decide about the nature and intensity of the trajectory. From the point of view of market competition, however, it is better to leave some room for flexible capacity adjustments.

96. As far as incorrect referrals are concerned, we estimate the chance of incorrect referrals to be lower in Model 2 than in Model 3. Model 2 does after all assume that the intake results in a clearly definable trajectory. On the other hand, Model 3 allows a wider margin of error; it is less necessary for the intake process to be fully completed at the time of referral. Model 3 even provides the possibility of reducing the responsibility of the principal for intake and explicitly giving the provider a role in continued

screening and more far-reaching re-assessment (as in Model 4). The main advantage is then that the genuine problems of a jobseeker can be addressed through longer-term contact with the provider. Of course, this process of more detailed re-assessment requires arrangements concerning the transfer of the updated information about the jobseeker. In Models 2 and 3, it is possible to allow the referral back of candidates only under strict conditions, for various reasons: in Model 2 because intake and referral should be well determined in advance, in Model 3 because the provider has more scope to decide which trajectory is used for whom. However, if the principal manages the entire process of intake in Model 3, the provider is justified in having a more flexible formula for referring back incorrectly-referred candidates.

4.2. *Use of instruments*

4.2.1 *On-the-job training and subsidised work-experience contracts*

97. Within the context of the “comprehensive curative” approach in Flanders, a number of additional places are envisaged for IBO (Individual Vocational Training in a company) and WEP+ (Work Experience Programme, outside the commercial sector). A specific subsidy scheme applies to each of these programmes. In creating the additional training and work-experience places, a number of new issues arise if a tender system is used. These relate to the creation of potential places, the screening and referral of candidates for a training or work-experience place, the social or work guidance of these candidates, the place of training and work experience in the formulation of the call for tenders and, finally, the definition of outcomes and their recognition. The following questions in particular require further answers when it comes to tendering: who decides which candidates are eligible for this type of programme? and, do providers themselves have to identify or create the additional places in question?

98. The first question deals with the decision about the referral of prospective jobseekers. Placing candidates in IBO or WEP+ contracts may be done by the principal as part of the intake procedure, or it may be a task (and decision) of the provider. In Model 2, well-defined sub-trajectories are implemented by private players. If intake and assessment may lead to the definition of a trajectory which results in an IBO or WEP+ contract, it is natural for the principal to specify this in its call for tenders. Even if the possibility of this trajectory development only emerges gradually, this ruling applies: the principal then issues a new specific call for tenders, or grants a contract extension for the provider that has guided the jobseeker so far. Model 3 deals with full trajectories, which may finish with placement in a suitable job. In this model, it is in theory conceivable for the provider to decide which candidates should participate in a training or work experience programme with an(other) provider or employer. The principal can develop a mechanism for possible places and vacancy requirements, where providers can obtain information at any time about the current list of vacancies and, if appropriate, can themselves add applications for new places to the list. In order to avoid providers being too eager to place candidates in an IBO or WEP+ place, the principal can envisage paying for these placements lower outcome fees than for placements in a regular job (*cf.* distinction between secondary and primary outcomes, see below). However, this will often be a necessary component of a trajectory for the very-long-term unemployed.

99. To summarise, in Model 2 the decision about which jobseekers are eligible for an IBO or WEP+ place is a task for the principal. In Model 3 it is possible for providers themselves to guide jobseekers towards these places. Providers also have to have the possibility of utilising the full range of programmes (including work-experience contracts).

100. The second question is whether the providers themselves have to look for or create the additional IBO and WEP+ places in question. This could involve the risk of a provider making a referral to itself, whether or not in collaboration with sub-contractors (resulting in a situation of where the provider is both judge and judged). This risk is probably not very significant in the case of the WEP+. In recent years, the number of WEP+ places has stagnated and the current places are not designed for the very-long-term

unemployed (those unemployed for over 3 years). Rather, the challenge will be to achieve the planned expansion of new WEP+ places and to fill them from the group of very-long-term unemployed people. With the additional IBO places, the risk of quick wins arises (little guidance, resulting in high placement rates). This is a problem that goes beyond the tender system. It must be remembered that the current IBOs chiefly benefit short-term jobseekers. The challenge therefore will again be to pre-assign the planned additional IBO places to the very-long-term jobseekers.

4.2.2 Training

101. When discussing training, it is best to make a distinction between short training courses when looking for work (job-search skills) and more substantial training courses (job-specific training). The question is how job-specific training in general can be encouraged for those clients who need it. This is also important with respect to skills-based guidance to the labour market. If the incentives and fees in the tender system are heavily weighted towards regular employment, the temptation is great for providers to help candidates find the “fastest way into work”. The question is whether this job is suitable and long-term. Experiences from both the Netherlands and Australia have shown this to be a genuine danger. The fact that less training is envisaged under a system of market competition can partially be ascribed to the outcome-oriented payment structure. Providers are not inclined to invest in training their clients because it is not certain that this will actually result in subsequent placement and therefore in a fee for services rendered. One possible solution is to create a separate account for jobseekers which can be used to pay costs such as training. Australia now has a “Job Seeker Account”, which must be used to pay for this type of costs, but is not personalised to the extent that the amounts paid into the account must be spent on particular clients.

4.3. Outcomes, pricing and payment structure

102. The definition of outcomes and the pricing and payment structure are key elements in designing a tender. The choices available with respect to the formulation of outcomes, pricing and payment structure are directly related to the extent to which competition is sought on the basis of performance and the weight of price in the tender selection process. Before looking in more detail at the financing model, we look first at the issue of an adequate definition of the expected outcome.

4.3.1 Defining outcomes

103. Defining outcomes is an important aspect of a tender model, particularly if the option of less process steering and more outcome steering is chosen. Strong incentives are preferably targeted at the outcome. Regardless of the specific model of tendering, three aspects need to be mentioned relating to the definition of outcomes: the types of outcome to be counted, measurement and benchmarking.

4.3.1.1 Types of outcome

104. The following questions arise:

1. Is transfer to continued training or a subsequent step in a trajectory an outcome, or does outcome only imply outflow into employment?
2. Which types of employment, and what minimum duration, qualify as an employment outcome? For example, can voluntary work count as an employment outcome?

Table 4.2. Definition of types of outcome

	Transfer	Outflow
Interim	(Pre-)training, on-the-job training and work experience	Work experience and on-the-job training, short-term temporary work
Final	Outside the labour market: temporary inactivity	- Labour market: strict versus broad (based on criteria of type of employment, type of contract, duration of employment) - Outside the labour market: voluntary work

105. The first question deals with whether to measure only outflow outcomes or transfer outcomes (*i.e.* transfers to another trajectory component or labour market measure) as well. In the former case, the process remains subordinate to the outcome, in the latter this is only partly the case. In the Australian Job Network system, both outflows (called employment or primary outcomes) and transfers (called secondary outcomes) were differentiated between interim outcomes (when employment has continued for 3 months) and final outcomes (when employment has continued for 6 months). The Dutch UWV tender for 2003 distinguishes two types of outcome: after 2 months of employment and after 6 months of employment.

106. A model for putting sub-trajectories out to tender (Model 2) deals (by way of example) with putting out to tender preliminary trajectories, training or work experience. Depending on the formulation of contracts, the outcomes relate to transfer to the next stage in a trajectory or outflow to employment. In a model for putting integrated trajectories out to tender (Model 3), in some cases it is possible to work with various subcontractors or joint venture partners, each responsible for different components in a trajectory. In this case, transfer outcomes might be defined for each step of the trajectory that may be implemented by a different subcontractor. Alternatively, outcomes may be defined only for the trajectory as a whole.

107. The second question deals with the definition of outflows. Employment, preferably long-term employment, is put forward as the ultimate objective of every reintegration trajectory. But are we using a strict definition of employment in terms of type of employment, type of contract and duration of employment? A short-term temporary contract, lasting 8 weeks for example, cannot differ so much from a work-experience project lasting one year, even if the latter is usually counted as a transfer outcome and not as an outflow outcome. Certainly, when it comes to subsidised work experience and training contracts, we are in a grey area between transfer and outflow: and the definition of outflow determines how providers will be able to generate outcomes. As a general rule, the duration of employment (with one or several employers) is important, not necessarily employment with the same employer.

108. Another choice when defining outflow is the value attached to outflow outside the labour market. Outflow outside the labour market can relate to work in the voluntary circuit (social participation), as well as forms of drop-out caused by exogenous factors (*e.g.* illness, moving house, suspension for administrative reasons). Strict definitions of outflow outcomes will deter some providers from submitting a tender. Vague definitions of outflow outcomes provide less of a guarantee of favourable long-term employment and net employment effects. It is therefore worth considering whether any types of outflow outside the labour market should be positively taken into account for the group of very-long-term unemployed people.

4.3.1.2 Measuring outcomes

109. The measurement of outcomes is a second area requiring attention in the definition of outcomes. This relates to the operationalisation of the definition of outcomes and responsibility for measuring outcomes. This question is closely related to monitoring of referrals and implementation of trajectories.

These issues are particularly important in a tender model where the principal may refer the client to several providers each supplying one component of a trajectory (as in Model 2). When providers are given long-term contracts, there is an increased need for precise outcome measurement. A longer-term commitment means decreased competition, and outcome measurement can create additional performance incentives.

4.3.1.3 Benchmark levels of outcomes

110. The benchmark (or target) is the third and last factor in the definition of net outcomes. Benchmarks can be varied by client group to combat creaming of the easier-to-place clients. The balance between competition and equity considerations is always a factor.

111. The first question is whether absolute benchmarks that apply to all providers should be defined. If providers are allowed to specify their own benchmarks for outflows and transfers in their tender, these will be one of the criteria used for evaluating the tender. In a pure model of outcome financing, a contract-specific benchmark is a logical option.

112. Another question is whether the target levels set in the performance contract between the government and the PES should also apply to the tender system. In our view, the target levels from the VDAB's current performance contract should not automatically be adopted. These benchmarks are not attuned to the curative target group that will form the subject of the tender. The current target levels are only slightly differentiated according to the employability of the target group. Also, outflow rates – whether or not contract-related – need to be measured more precisely, particularly with respect to the outflow destination and the duration of employment.

113. Benchmark levels for outflow rates can vary in two ways: by type of outflow (the more permanent the employment, the lower the benchmark) and by target group (the “more difficult” the target group, the lower the benchmark) or a combination of the two.

4.3.2 Pricing and payment structure

114. Experience in other countries teaches us that strong incentives are needed to create adequate results. Explicit measurement of outcomes relative to benchmark levels is one way of doing this. Another way is through payment mechanisms. In its purest form, financing is based fully or partly on outcomes (“outcome is income”). In intermediate forms, financing can also be based on inputs and processes.

115. Starting with the idea that a certain degree of outcome financing is applied, a number of choices still have to be made about pricing and the payment structure. These choices are important not only for the outcome-orientation of the tendered trajectories or trajectory components, but also for the correct operation of the market.

4.3.2.1 Pricing

116. Pricing deals with the question of which criteria are used for pricing and who determines the price. It is possible to opt for free pricing by the provider, as in the Dutch UWV tender. In this case price – together with outflow outcomes – becomes one of the most important criteria for evaluating tenders. Free pricing is an advantage if the government wants to allow the principle of competition by price to be fully effective and has insufficient knowledge to set the correct price. Ideally the market should minimise the price paid for a given set of employment services. However, in practice prices do not necessarily tend towards a lower price level under the influence of free market competition because, as stated above, in Australia and the Netherlands price is never the most important criterion for selecting tenders. At the same time, it may be argued that the value placed on employment outcomes (such as higher employment/lower unemployment) should be determined by principal, rather than the market (Grubb, 2004).

117. In a fixed pricing system, fixed prices per unit or administrative prices are used. A system of free market operation and competition is, however, more difficult to reconcile with a fixed pricing system because competition on the basis of price is entirely absent. Another problem with fixed prices is how to choose the prices. In some cases the principal can observe the price structure in related markets. But there is a risk that prices are not correctly set, leading to a too-high or too-low overall level of spending on employment services.

118. A middle road is to choose a semi-fixed system of pricing. This type of system can be a combination of criteria, recommended prices, brackets of minimum and maximum prices and a number of administrative prices, depending on the types of costs. Pricing can vary by target group and supply on the one hand and outflow possibilities on the other hand. Prices can initially be formulated based on experience of the public job brokerage body with its own operation or with outsourcing. One possible disadvantage of any mixed pricing system is that it can quickly become highly complex.

4.3.2.3 The payment structure

119. Two major types of payment structure exist: no cure, less pay and no cure, no pay. Under “no cure, less pay”, the total fee paid is related partly to the number of clients serviced and partly to the number of clients who enter employment. Under “no cure, no pay”, the total fee paid is directly proportional to the number of clients who enter employment. The latter term may be misleading because positive rates of entry to employment arise even when a provider provides no services, or when the services provided have no impact. Pure outcome-based payments according to the principle of “no measurable impact on the entry-to-employment rate, no pay” have not so far been implemented.

120. Usually, the formulae used in practice correspond to a combination of input and outcome financing. This helps spread the risk between principal and provider. If the risk for the provider is too high, providers will withdraw or smaller providers will not participate. A logical consequence of full provider responsibility for outcomes is the application of full outcome financing. A negative effect of full outcome financing is creaming. With partial outcome financing, the provider receives an initial (up front) payment for each client, plus interim and final outcome fees for each client who enters work. Moreover, a bonus can be envisaged if performance is better than expected (as in the UWV tender in the Netherlands). Payments can also be made for services actually rendered (service fees, in the third round of Australia's Job Network).

121. In the Netherlands, an important step was taken towards “no cure, no pay” with the UWV tender effective 1 July 2003 (for difficult target groups “no cure, less pay” still applies). Even prior to this, a substantial share of provider income (40 to 60% of the total) was derived from outcome fees. In Australia, about 20% of provider income was derived from outcome fees in the first tender and this proportion rose to about one third in Job Network 2 (OECD, 2001), but in the present (third) tender it has again been reduced, in favour of fees paid upon proof of delivery of services, and the Job Seeker Account which is earmarked for spending on training and certain other services.

122. A tendering model with shared risks and responsibilities is logically characterised by a payment structure with partial outcome financing. Depending on referral and the difficulty of the target group – and depending on the outflow possibilities – the weight given to outcome financing can vary. It is possible to choose more far-reaching outcome financing if the target group inflow is guaranteed, if the jobseekers are easy to place in work and if the economy is healthy.

123. A second issue in the payment structure is the timing of payment. We are thinking here of pre-financing and financing upon placement, possibly phased. Pre-financing is particularly important for small or new providers. It can counter possible market shrinkage and cash flow problems among providers.

Financing upon placement can be phased depending on the permanency of the placement (*e.g.* one instalment after 6 months, another instalment after 12 months).

124. When applied to a reintegration market for “difficult” target groups, a number of choices have to be made regarding partial outcome financing. Outcome fees can be differentiated according to the type of outflow and the target group. The choice is related to the definition of outflows and benchmark level for them. A strict definition will limit the volume of outflows. If a broad definition is used, differentiation by type of outflow is possible, to reward outflows into long-term employment.

125. When benchmark levels of outflows are defined, a bonus/penalty system is a useful instrument. In the case of applying a penalty, the poor performance must be attributable to the provider in question, not to exogenous factors (*e.g.* failure to provide the guaranteed inflow, or poor outflow possibilities as a result of a changed economic situation). A bonus/penalty system can be appropriate in a system with partial outcome financing (no cure, less pay). The UWV tender for 2003 envisages two types of bonus: a time bonus (for completing the trajectory as rapidly as possible) and a placement bonus (if the employment lasts at least 6 months).

126. An alternative to a bonus/penalty mechanism relating to the duration of placements is a “return obligation”. If the jobseeker quickly becomes unemployed again, the provider must continue to provide guidance. A return obligation creates a form of “permanent responsibility” for the provider during the follow-up phase.

4.3.2.3 Application to the models

127. Table 4.3 shows the relationships between the options of full or partial outcome financing and risk, pricing mechanism and the potentially harmful consequences for the jobseeker.

Table 4.3 **Full or partial outcome financing correlated to risk, pricing and creaming off**

Outcome financing	Risk	Pricing	Creaming off of easy-to-place clients
Full	Contractor's risk	Rather free prices	Possibly greater
Partial	Shared, principal and contractor	Rather fixed or semi-fixed prices	Possibly more limited

128. The risks and responsibilities are shared in sub-trajectories (Model 2) and in integrated trajectories (Model 3). For this reason, partial outcome financing is the most appropriate. Greater weight is possible on the outcome part in Model 3 than in Model 2. Full outcome financing would lend itself better to Model 4, where the provider itself is involved from the start of the trajectory (intake).

129. In a system where strong emphasis is placed on full outcome financing and the risk is therefore shifted towards the provider, it is also better to allow pricing to be fixed by this provider. If providers are made fully responsible for the risk of non-employment and for providing appropriate services during continuing unemployment, they will take this risk into account and set a higher price. In a case where relatively more weight is placed on the commencement fee, a mixed formula of fixed or semi-fixed pricing is more appropriate. Creaming of easy-to-place clients is a risk in both options, but possibly a greater risk with full outcome financing if no measures to counteract it are envisaged. Potential incentives to counteract creaming are, for example, to pay higher fees for more difficult target groups.

130. In tender models where case management is still heavily controlled by the principal, there can be no full allocation of risks or responsibilities to the provider, but rather a situation of shared risks and responsibilities. This is more the case in the model of sub-trajectory tendering (Model 2) than in the model of integrated trajectory tendering (Model 3). In a tendering model with shared risks and responsibilities, it is therefore logical to choose a fixed or semi-fixed pricing system. In a sub-trajectory tendering model (Model 2), it is easier to gain an insight into prices and possibly to work with recommended prices. In an integrated trajectory tendering model (Model 3), it is more difficult to build up a picture of the cost price in advance; after all, the trajectory can evolve and become more complex, with subcontractors brought in for certain components. Free pricing fits in better with the logic of Model 3.

4.4. *Combination of government contracts and market activities*

131. Market competition in the “comprehensive curative” approach implies that market players combine government contracts with their usual (market) activities, which may be partly or wholly in the same field as the activities requested in the tender. Does this represent a risk? To what extent is additional legislation desirable to avoid potential abuse or improper use?

4.4.1 Cross-subsidisation

132. If the government enlists the services of private market players to provide employment services for jobseekers, these market players may also use other sources of income to implement the contract. This is known as cross-subsidising. In this way, providers can make up for prices that are fixed too low in the tender (with free pricing) or for prices that are fixed too low by the principal (with fixed pricing). Certain providers could also use it to bid under the market price and thus to ensure themselves of a presence in the newly created market. Providers may also make a legitimate profit from employment services, which subsidises other part of their business. Or, if the costs of inputs to employment services are reimbursed by the principal, some of the inputs may be illegally used for the benefit of other parts of the business. Entry to the market for reintegration services involves high specific investments where such problems may arise. However many providers will be keen to maintain their reputation by avoiding any obvious abuse.

133. In order to rule out cross-subsidising completely, we could think of placing a financial barrier between government contracts on the one hand and market activities on the other, each with separate bookkeeping per government contract or type of government programme in which the organisation in question receives public funding. However such a measure may deter potential bidders and increase administrative costs, and seems excessive in the present context.

4.4.2 Double financing

134. A related question has to do with double invoicing for the same activity: this is known as double financing. A commercial employment agency may be paid by the hiring employer for two tasks: selection of candidates and handling the contractual and administrative tasks of an employer (*e.g.* implementing health checks or managing the payroll). If a candidate sent by this agency is following a guidance trajectory, the agency may receive public financing for certain services which are not subsidised when an employer hires candidates directly. In practice, however, this seems unlikely, especially for the target group of the long-term unemployed. A situation where a jobseeker spontaneously registers with an employment agency, which gets a fee from the employer and also reaches a deal with the jobseeker's employment services provider, seems relatively hypothetical.

135. A similar situation of overlap in financing (or at least of a double role) can occur with WEP+ employers in the non-commercial sector. If work-experience (WEP+) employers can also act for the client as provider of a guidance trajectory, they may obtain outcome fees for placing clients in their own

subsidised work programmes. Of course, channelling towards “in-house” training and work-experience places also arises under other arrangements for administering labour market programmes. The question is whether this could pose a genuine problem. Experience shows that the creation of additional work-experience places is not an easy process, given the conditions regarding financing, etc. If the size of the guidance contract is sufficiently large, relative to the number of work-experience places, the employer/provider will still need to place many clients in work outside their own organisation. Differentiation in outcomes fees (higher for outflow into a regular job than for outflow into a work-experience place) will help to maintain incentives for placement into a regular job. Finally, we recommend that the government rule out any form of “self-recruitment” by the provider. To avoid incentives for the creation of artificial jobs in order to earn the fee for placement into a regular job, the placement fee for a job of any particular duration should always be less than labour costs borne by the employer for such a job.

4.5. *Quality, monitoring and quality labelling*

136. In contrast to the commercial market, the principal in a market of publicly-financed contracts remains accountable for the funds deployed and the outcomes obtained. Public tasks can be left to private providers only if the contractual obligations can be sufficiently precisely stipulated and adequately monitored. Moreover, the government must also ensure a certain quality of services for all jobseekers. In the private sector, the quality of some services is highly differentiated depending on the socio-economic status of the consumer. However, this is unacceptable in the public sector. Contracts have to ensure an adequate level of equal treatment for jobseekers.

137. For this reason, in addition to a number of measures to ensure compliance with a contract and a code of conduct, performance needs to be monitored. Setting up a tender procedure goes hand in hand with investment in a system of monitoring (both compliance with contracts and performance), data management and a quality assurance system. Compliance monitoring examines whether the services are provided as envisaged in the contract and the financial and payment regulations. Performance monitoring is based on key performance indicators and a mix of methods (administrative data, survey data, risk assessment and site visits). Various systems for quality assurance and labelling can be transferred from the systems used in the services sector in general.

4.5.1 *What kind of monitoring?*

138. The monitoring method in a tender system cannot simply be adopted from that in the system of government financing *via* subsidies, with which we are familiar. Firstly, some caution is required with respect to detailed monitoring of the process in order to achieve certain results. The basic starting point of market competition is after all that the provider can decide independently how the services are provided so as to meet the needs of the jobseeker. Overly-detailed everyday management by the principal meets with resistance from the market and leads to detrimental effects. In Australia, the independent audit by the Productivity Commission warned: “There is evidence that the balance has swung too far towards detailed monitoring. Some forms of monitoring are applied to all Job Network providers, not just to those identified through risk assessment. (...) In the next Job Network round, the compliance burden placed on providers by DEWR should be reduced to the minimum compatible with a prudent risk based strategy that ensures accountability in the expenditure of public funds and the achievement of clearly specified objective outputs and outcomes.” (Productivity Commission, 2002, Chapter 12.1).

139. In a principal/provider model, the provider is primarily evaluated (and paid: see Subsection 4.3.2) according to the extent to which the intended goal has been achieved, rather than how it was achieved. At the same time, the transparency of the market is an important objective: interested parties (government, jobseekers, employers) want information about the quality of the individual market players. Transparency regarding quality promotes competition and stimulates quality improvements. Transparency implies a

certain monitoring of performance, but in such a way that the administrative burden (transaction costs) remains limited.

140. A number of aspects of monitoring deserve special attention in tendering:

- *The follow-up of referrals* is an extension of the principal's role as gateway to a trajectory. In Model 2, the main point is that the referred client starts the activities promptly; in Model 3, it is important for the provider to give sufficient feedback about the trajectory's progress, and for the trajectory agreement with the jobseeker to be updated as the trajectory evolves.
- *Data transfer from principal to provider* and vice versa implies a burden of data entry for the provider. For example, the provider may find that information that the principal has entered into the jobseeker's file is incomplete or outdated.
- *The outflow destination* deserves special attention. The destination may be a regular job, a subsidised job, long-term training or withdrawal from the labour market. An understanding of longitudinal developments (is the jobseeker still working for the same employer?) is also necessary. Data of this kind are not currently registered by the VDAB.
- *Evaluations by users (jobseekers and employers)* are needed. Customer satisfaction surveys should provide comparisons not only over time but also between providers. In addition to feedback about quality, the establishment of a complaints procedure for both providers and jobseekers is desirable.

It should be clear that in designing a tender system – using whatever model – significant investment will have to be made in performance monitoring and mutual performance comparison *via* benchmarking.

4.5.2 *What kind of quality labels?*

141. Current practices also raise a number of questions in terms of quality labelling. The first question is how far the government should go in requiring providers to have certain quality labels, with the goal of continuous quality improvement. Secondly, the question arises of how to deal with the multiplicity of certificates and labels in existence. Both public players and private and non-profit players take initiatives themselves, and are increasingly developing their own quality policy.

142. On the private market, a number of established quality labels are in use, such as ISO and EFQM. These differ in terms of approach to quality and in criteria. Within the context of government contracts on a commercial market, it is advisable to use one or more labels with an unequivocal customer-oriented approach within a system of quality assurance (Matheus *et al.*, 2002):

- A customer-oriented approach because in the area of labour reintegration customer-oriented services are precisely what it is all about (in contrast to a transcendent or excellence approach, as with EFQM).
- Quality assurance because this best meets the need for a guarantee of basic quality (unlike a system of integral quality assurance or continuous quality improvement of the entire organisation). The intention is to avoid qualitatively inferior providers acquiring or maintaining a place on the reintegration market.

143. All established labels aimed at quality promotion or current labels grafted on to them (such as the government label in Flanders for private training companies, to which employers and employees can take

their training cheques) should be taken into consideration. This ensures that earlier investment undertaken in order to obtain a label has not been in vain. Only a basic level should be required, so that it is not too difficult for smaller organisations to qualify. Previously-labelled actors should be examined to see whether their label consists of the established criteria, whether the quality approach is that of customer-orientation and whether they guarantee a minimum quality level (quality assurance). Both processes and outcomes are important. For training providers, it is best to examine to what extent specific accreditation, which differs by sector or programme range, can be used.

144. In the Netherlands a quality mark, accessible to both large and small providers and subcontractors, was launched by the business association of reintegration companies in 2002. By the end of 2003, around 50 had obtained the Borea Reintegration Quality Mark. Borea publishes a benchmark report every six months. The label covers 12 performance indicators, including trajectory completion times, placement outcomes, quality policy of the company and satisfaction of clients, principals and employers.

145. The final question is that of the extent to which potential submitters have to have a label before being allowed to enter the market. In the early stages of market competition, it is not advisable to introduce this kind of threshold straight away. We advocate a gradual approach, with a consistent preference for promoting competition. The preconditions for tendering (compliance with social and fiscal legislation, anti-discrimination, privacy and use of information, etc.) are something completely different.

4.6. Privacy and data transmission

4.6.1 Protection of personal privacy

146. The registration and use of personal data is constrained by the principles of privacy protection and respect for personal integrity. One instrument for this is a code of conduct which is endorsed by the organisations providing the services. Experience in other countries has also shown that this does not inhibit private players from tendering. This code of conduct is best regarded as part of a registration and recognition system for private players. This system contains not only legal, financial and ethical preconditions, but also aspects of professional competence (the use of objective, non-biased instruments, non-discriminatory procedures and criteria for participation in the services, etc.). This in itself provides some degree of quality assurance. Professional competence is best distinguished from the more far-reaching evaluation of services and/or organisation that is needed to obtain a quality label (Subsection 4.5).

147. Consensus has been reached in Flanders on the principle of registration and recognition of private job brokerage agencies and career guidance centres. The same principles can be applied to players in the employment services market. Depending on European decisions regarding the liberalisation of the services market, foreign players may also be covered by these arrangements.

4.6.2 Rights and obligations

4.6.2.1 Rights of jobseekers

148. Freedom of choice is a market principle that is also applicable in a tender system for jobseekers. Freedom of choice of jobseekers is linked to the set of rights and obligations of the jobseeker. The jobseeker has the right to information and guidance towards work. In what way is the client involved in the choices that have to be made at the time of intake? The involvement and contribution of the client in intake can relate to the interpretation of test results, the possibility of having a second diagnosis made as a kind of “second opinion”, etc. Freedom of choice can relate to the type of guidance and training, or the choice of a specific provider for these functions.

149. As well as client participation, the question of complaints and appeal procedures also arises. Where can the client go with complaints and how are these complaints handled? Can the client appeal against decisions related to his personal trajectory or to sanctions? A complaints and appeal procedure means more than submitting a complaint form to an ombudsman service in an organisation, in the hope of a solution. In this procedure, it must be clear who is dealing with the complaint, how it is handled, which parties can be heard and within what deadline a decision is made.

4.6.2.2 Role of the provider concerning obligations and sanctions

150. The question of obligations and sanctions arises with “unwilling” jobseekers. This “lack of will” in the form of negligent action or refusal to take action must be distinguished from a “lack of motivation” among the target group. The likelihood is high that providers in the “comprehensive approach” to the curative target group will have to deal with demotivated clients. It is important to underline that providers have a role to fulfil in motivating clients and that demotivated clients find themselves first of all in a guidance model and not in a sanctioning activation model.

151. In the Flemish “comprehensive approach”, VDAB takes on responsibility for the jobseeker's burden of proof. The unemployed person's trajectory stages are automatically communicated *via* the on-line registration system. Moreover, unemployed people are given a work folder containing certificates issued by the VDAB. However, this does not mean that the VDAB takes over the entire burden of proof from the jobseeker. The VDAB plays a supporting role. In a tendering model, the provider also has a role to play in this respect. It can be assumed that providers are responsible for registering and monitoring client data for the sub-trajectories or the integrated trajectories which they manage. In an integrated trajectory model, this role is greater than in a sub-trajectory tendering model, since the provider has a stronger grasp on managing the process.

4.6.2.3 Registration and transmission of client data

152. In the light of on-line data transmission, the registration of data is an important area of attention. In the Netherlands, the programme of requirements for reintegration trajectories in the UWV tender (2003) contains rules for the provision of information by the provider. For instance, the reintegration company is to provide all data and information to the UWV concerning: the progress and outcome of the reintegration trajectories used, and the reason for drop-out or delay and reason for premature termination of reintegration trajectories used. A specific responsibility and information obligation applies to clients receiving a benefit with respect to UWV for facts and circumstances which can lead to fines or consequences for the benefit. Specifically, this refers to negligence by the client in the search for work:

- Making inadequate efforts to obtain suitable work.
- Failing to accept work offered or not obtaining suitable work through one's own fault.
- Not retaining suitable work through one's own fault.
- Making requirements regarding work performed by him/her that hinder the acceptance or procurement of suitable work.

The obligation also relates to refusal by the client to:

- Comply with a request from the provider to supply information which is important for fulfilment of the reintegration trajectory.

- Comply with a request from the provider to appear.
- Cooperate adequately in measures regarded as desirable by UWV, aimed at maintaining, recovering and promoting the possibility of performing work.
- Cooperate adequately in activities by or on behalf of the provider which are beneficial to integration into work (*e.g.* tests, training).

The provider informs the principal exclusively of facts and circumstances but has no advisory role with respect to sanctions.

153. The registration of client data was originally used in Flanders as an instrument for trajectory guidance and monitoring the performance of providers. In the new inspection rules, it is also used as an instrument for inspecting and sanctioning jobseekers. Moreover, it can also be used as an instrument for inspecting the provider. To what extent are rules imposed on the registration of this inspection data? How should registration be carried out and in how much detail (registration of actions)?

154. In Flanders, in the context of outsourcing by the VDAB, executing parties are given access to the present client monitoring system (CVS) and they are also expected to register data about the progress of the trajectory. The executing parties have a detailed manual available for this purpose. The system has several advantages: it provides guarantees regarding privacy, it is an instrument for trajectory monitoring and it also provides third parties with a chance to have their performance visualised. We do not advocate simply adopting this method in a tender system. The CVS is best re-examined in the light of the logic of market competition, *i.e.* excessive emphasis on detailed process inspection must be avoided. Another area needing attention is the registration of reasons for absence, premature termination or refusal to provide services.

4.6.2.4 Application to the models

155. In a model for putting sub-trajectories out to tender (Model 2), a trajectory agreement is reached between the jobseeker and the principal, and the jobseeker can enforce rights against the principal. In a model for putting integrated trajectories out to tender (Model 3), the role of the provider is somewhat larger. Intake is indeed carried out by the public body, but most of the responsibility for putting the trajectory into practice lies with the private provider. It is the responsibility of the provider to ensure that the rights of the jobseeker are safeguarded. This is possible by building guarantees into the status of the jobseeker, and by establishing rules for registration and the transmission of data between the executing party and the commissioning party. In the logic of a market-type model, this registration and transmission obligation is best kept limited to the registration of the major stages of a trajectory. It cannot be the intention that every specific activity has to be permanently screened by the commissioning party.

156. The issues of registration and burden of proof indicate the importance of the “un-doubling” of the role of guide/provider of reintegration services and the role regarding inspection and sanctioning. The provider does not have a task to fulfil regarding inspection and sanctioning based on its role as mediator and guide for clients. Its task is best limited to providing information and a reporting duty in the event of a “lack of will” by jobseekers. It is essential that guidance work remain the core activity of the “comprehensive approach”, without the activation obligations becoming an obsession at the time of registration.

5. CONCLUSIONS

157. The previous sections contain many options and recommendations for the policy used in designing a (first) tender for the “comprehensive curative” approach within the Flemish context. In this final section, we summarise the main options and conclude with some overarching recommendations.

158. Firstly, we look at the need for design choices that are mutually consistent and can reinforce one another. We start with the two intermediate models: Model 2 (sub-trajectories) and Model 3 (integrated trajectories). Model 1 is already more familiar in practice, while Model 4 probably deviates too far from the current policy constraints in countries which are in an early stage of market competition. For this reason, we do not examine them in more detail here. We then advocate three conditions for success: room for market competition, “positive creaming off” of the most difficult target groups, and government guarantees.

5.1. *Consistency in developing the tender system according to one of the models*

159. Four models are developed in this paper, with a focus for the Flemish government on the sub-trajectory tender model (Model 2) or the integrated trajectory tender model (Model 3). The basic distinction between these options is the extent to which the process of implementing a trajectory – involving related decisions affecting individual clients – is left to the market players. Model 3 leaves more room for the provider to decide on the nature and intensity of the trajectory itself, in consultation with the client. Model 3 attributes more responsibility and more risk to the provider than Model 2 does.

160. Model 2, with less risk for the provider and, consequently, less room for independent interpretation of the trajectory, lends itself to the following design choices, based on the factors mentioned in this paper:

- *An adjustable capacity guarantee*, with a flexible formula for referral of clients back to the principal.
- *Partial outcome financing*, with weight equally distributed between inputs and outcomes, and a bonus for additional placements.
- *Fixed or semi-fixed prices* (price is easier to determine from an analysis of the contracted tasks).
- *Significant monitoring*, especially in relation to promptness in starting each sub-trajectory.

161. Model 3 lends itself better to the following design choices:

- *A fixed capacity guarantee*, with strict limits on the possibility of referral back.
- *Partial outcome financing with greater weight on outcomes*, and two types of bonus: a bonus for additional placements and/or a bonus for more permanent placements (defined in terms of the duration of employment).
- *Greater possibilities for providers to specify their prices in their tender* (the price is more difficult to determine from an analysis of the contracted tasks).
- *Monitoring*, particularly of trajectory transitions.

The design choices within each of the models require a complex balancing act. The selection of Model 2 or Model 3 should be based on a whole series of considerations:

- The importance attached to achieving as much “equal treatment” as possible at the beginning of the process (in Model 3, trajectory (re)definition is partially the responsibility of the provider).
- The importance attached to price competition (more possible in Model 3).
- The importance attached to freedom of choice for jobseekers and competition for jobseekers (possible in Models 2 and 3).
- Ability to define the entire trajectory and establish it in a trajectory agreement at the time of first intake, before trajectory implementation begins (required in Model 2).
- Ability to predict future needs in terms of the number and type of sub-trajectories (required in Model 2).
- Faith in the innovative capacity of the market players (possible in both Models 2 and 3).
- Confidence in effective market competition (Model 3 demonstrates more confidence because the entire process, after intake, is handed over to the provider).
- The availability of more sophisticated data on the sustainability of employment outcomes (required in Model 3).

5.2. *Room for market competition*

162. A tender system – within whatever model – can only succeed on condition that sufficient room is provided for market competition: room for providers and for the steering effect of the market (steering by the market rather than steering of the market), room for performance incentives (hence the importance of partial outcome financing and bonuses) and room for jobseeker choice.

163. The extent of market effectiveness and competition can be positively influenced by various forms of intervention:

- Avoiding having only one bidder.
- Working with free pricing rather than fixed prices.
- Increasing the opportunities for new providers, by removing barriers to entry (explicitly awarding some contracts to providers with limited experience).
- Ensuring that several providers have similar contracts, so that the advantages for the incumbent providers are limited.
- Limiting transaction costs for both submitter and principal, for instance using simpler tenders and contracts.
- Expanding the pool of qualified potential submitters.
- Giving the client a choice between various providers.

- Leaving room for the provider to interpret the trajectory.

164. Financial incentives must play a key role in evolving market competition. An insight will have to be gained through experience into the effects of the performance incentives. For this reason, it is recommended that the effects of incentives should not be neutralised by contract-transcending standards or other forms of government control and auditing.

165. Setting up a tender system in a quasi-market, such as jobseeker guidance, requires an appropriate system of monitoring and quality control, using a combination of methods. In addition, a quality label is desirable, based on the systems that are customary in the services sector in general. However, it is not advisable automatically to adopt one superior model (*e.g.* EFQM) within the context of market competition – on the contrary. Basically, we do not think it advisable to require all potential submitters in the early stages of market competition to possess one of the labels customary on the market straight away, before being admitted to the newly developing market.

166. Last but not least, a system of market competition benefits from allowing jobseekers to choose between providers and participate in determining their individual trajectory. To achieve freedom of choice, it is firstly necessary to contract several providers for the same type of service. In addition, sufficient information is needed to make it a genuine option. Finally, it is important for the jobseeker to have a real possibility to contribute to the definition of their own trajectory, and to have a right of appeal.

5.3. *Positive creaming off of the most difficult target groups*

167. Creaming and a variation of it – parking – go against the principles of social justice and equal treatment. The fact that the government is investing in a “comprehensive curative” approach is of course in itself a significant corrective measure to combat creaming off of the groups that are easy to place in work. In recent years, the operations of the Flemish PES, influenced by the European preventive strategy (Guideline 1 of the European Employment Strategy), have consciously shifted towards short-term jobseekers, who are called the preventive target group. The new plan for the “comprehensive curative” approach is a break with that policy trend. However, this does not mean that all undesirable selection problems are resolved. Research shows that the selection of groups with the lowest risk of lasting unemployment and the parking of higher-risk clients is reproduced in each case at a different level (Considine, 2001; Struyven and Verhoest, forthcoming).

168. “Positive creaming” involves encouraging providers to concentrate their efforts on those who are in the most need of intensive guidance. Within the logic of a system of market competition, the first solution is to differentiate placement fees, and pay bonuses, according to the principle of “the more difficult the target group, the higher the fee”. A simply proxy variable for the degree of difficulty is the duration of unemployment. This can be supplemented by identifying some highly specific target groups (*e.g.* ethnic minorities). The weight of the commencement fee can be increased for more difficult target groups. Minimum placement figures can be set in advance according to the specific contract formulation; these placement targets can be lower for more difficult target groups. Finally, the outflow destination can also be broadened for the most difficult target group by fully recognising forms of social participation (*e.g.* through voluntary work) as a placement outcome.

169. Another method is to issue separate calls for tenders for differentiated target groups. These can also be spread over time. This also responds to the capabilities of smaller, specialist providers.

5.4. *Government guarantees*

170. Developing a market is only possible if the government demonstrates confidence in the market players by providing certain guarantees: guarantees of competitive neutrality; guarantees of professional principalship and guarantees of continuity in the choice of a tender system so that market players are also willing to invest in it. Today in Flanders a market of potential submitters exists but the commercial sector is expected to adopt a cautious “wait and see” attitude. The challenge is therefore two-fold: to launch a tender which is immediately 100% “right” in the eyes of the market in the short term, yet can become the basis for stable policy choices in the long term. In the longer term, learning effects, coordination effects and anticipatory behaviour can reinforce one another. Starting this process with a clear framework, without extreme administrative mania, is the best way to achieve the desired market dynamics and innovation in the Flemish context.

5.5 *Procedure and approach*

171. The introduction of market competition based on the compulsory open tender system is a major challenge for the organisation responsible for the tendering process. The PES has little or no experience with it. It is also difficult to apply tried-and-tested models from abroad: success is not guaranteed when models are transferred to a different environment and a different institutional context, such as in Flanders. Every country that chooses market competition faces a complex process of weighing up, testing and seeing how it works.

172. We propose the use of a two-phase call-for-tenders procedure, as explained in Section 3. Evaluation criteria with corresponding weights should be clearly specified in advance in the tender document. A number of options are available in terms of content, depending on the decision to contract for sub-trajectories (Model 2) or integrated trajectories (Model 3). In line with the considerations in Section 2, we advocate a broad formulation of contracts with a limited number of types of contract (defined by target group and/or labour market region) as the subject of bids. This avoids excessive fragmentation of contracts, which would unnecessarily increase costs for both the principal and the bidders.

173. The preparation and implementation of the tender system is experimental in nature. It will also generate much interest in other policy sectors and abroad. An initial requirement is that sufficient capacity be released to set preparation and implementation on the right tracks. Ideally, we could advocate an organisational structure in which the body acting as principal operates quite separately from the body that will actually implement guidance and training, but in certain countries this is not always feasible or politically desirable. It is necessary to make sure that the PES division within the organisation chart that includes the role of principal has a sufficiently autonomous position with respect to the other directly involved PES divisions (divisions for trajectory implementation and intake). Finally, we advocate external supervision of the tender procedure to ensure competitive neutrality. In this way, the tender experiment is to a certain extent embedded into the supervisory structure. This option is feasible in the short term and is also necessary for the success of the first goal of the tender experiment – for the market to take over.

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