

**Submission by the Commonwealth Ombudsman**

**Department of Social services:**

**New disability employment services from 2018**

**discussion paper**

Submission by the Commonwealth Ombudsman,
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# Introduction

The Commonwealth Ombudsman welcomes the opportunity to respond to the Department of Social Services’ Discussion Paper – *New Disability Employment Services from 2018*. This submission will focus on the proposals to improve participant choice and control, align funding incentives to support better outcomes and improve gateway and assessment processes for Disability Employment Services participants.

# Background

The Commonwealth Ombudsman has broad jurisdiction to investigate the administrative actions and decisions of most Commonwealth Government agencies, including the actions and decisions of private providers contracted to deliver services on behalf of those agencies.

Some of the most common types of complaints to the Commonwealth Ombudsman are about:

* the delivery of payments and services under social security and family assistance law by the Department of Human Services’ Centrelink program
* the assessment and collection of child support liabilities by the Department of Human Services Child Support program
* people’s experience of job services programs including:
* Jobactive services managed by the Department of Employment
* Disability Employment Services (DES) administered by the Department of Social Services (DSS) and
* Community Development Program or Indigenous employment services managed by the Department of Prime Minister and Cabinet
* administrative decisions and actions of the National Disability Insurance Agency.

As part of its broad oversight role of Commonwealth government administration, the Commonwealth Ombudsman can investigate the administrative actions of disability employment services (DES). Through the investigation of individual complaints, liaison with DSS and consultation with stakeholders (such as legal services and community organisations), the Ombudsman’s office has built up a picture of DES complaint trends. These complaints inform our submission on this discussion paper.

# Improving Participant Choice and Control

### More choice in selecting a provider

The most common area of complaint about DES received by the Commonwealth Ombudsman’s office is participants’ dissatisfaction with their DES provider and difficulties in changing providers when this occurs.[[1]](#footnote-1)

Complainants raise a range of reasons for being dissatisfied with their providers including:

* lack of appropriate support and funding for participants’ desired activities (such as study, literacy assistance, resume preparation, transport and necessary job items)
* participants not being put forward for jobs
* inappropriate referrals - participants being recommended for jobs or courses they were physically unable to do because of their disability
* DES providers offering mostly self-service
* unprofessional behaviour of DES provider staff
* employers not receiving payments for DES participants they have employed
* participants’ income support payments being suspended due to: incorrect record keeping by the DES provider; the provider not renewing a job plan; or the provider not communicating with Centrelink about changes to their status
* poor record keeping by providers (for example, records about the jobs participants had applied for, missed appointments or periods counted towards program of support requirements)
* difficulties in transferring providers, for example, transfer requests being denied or being referred to multiple agencies when a transfer was requested.

Given these concerns, we agree with the proposals in the discussion paper to give participants more choice in selecting their provider and to simplify the process for changing providers if participants are not satisfied with the service they receive. We consider the process of obtaining a voluntary transfer should not be complex or onerous for the participant. If there are restrictions or limitations on the number of times a person can change providers, these should be clearly explained to participants before they transfer.

### Provider/participant contacts

Many complainants to our office express frustration with the appointments process. Key issues include:

* provider inflexibility in scheduling and changing appointments
* delays in getting appointments
* participants not being informed about scheduled appointments resulting in missed appointments and income support penalties
* providers scheduling appointments at times when the participant had job interviews
* participants being unable to attend appointments due to transport issues
* phone appointments not being practical
* participants feeling harassed by communication from providers to attend appointments, for example, during a period of medical exemption.

In light of these issues, we agree there should be greater flexibility in the frequency and mode of contact between providers and participants. However, any proposal to reduce face to face communication needs to take into account the participant’s individual circumstances and preferences. Online video conferencing may not be suitable in all cases, particularly for vulnerable participants, such as those who do not have English as a first language or do not have access to suitable technology. Providers should consider the participant’s preferences, the nature of their disability and cultural and language considerations before deciding on the mode of contact for appointments.

### Job plans

Some complainants express concerns that job plans are not relevant to their needs (for example, the job plan could not be changed to include volunteer work) or they are not given time to read the job plan before signing it. Others complain that too much time is spent on the job plan rather than discussing prospective jobs.

We consider that job plans should be developed after genuine negotiation between the provider and the participant and include activities relevant to the individual’s circumstances.

### Better information for participants

We agree that better information for DES participants is critical if they are to exercise effective choice and control in selecting a provider and the services they receive. We consider that DSS should facilitate access to information on accessible and user friendly platforms to ensure the information is consistent and accessible to people with disabilities.

Two key areas we consider participants and providers should be given information about are:

* complaint and feedback mechanisms and
* program of support requirements.

It is important for participants to be given clear and accessible information about how to complain and provide feedback if they are not satisfied with their DES provider. The current DES complaints pathway is complex and can involve multiple agencies.[[2]](#footnote-2) Each agency involved in the DES complaints pathway should be receptive to DES complaints so there is ‘no wrong door’ for participants. The information provided by agencies should clearly explain the complaints process to make it easy for people to complain and promote the message that feedback is welcomed and valued.

Our office has dealt with several complaints which highlight lack of awareness about the program of support requirement to qualify for DSP. In December 2016, the Ombudsman’s office finalised an own motion on the accessibility of Disability Support Pension (DSP) for remote Indigenous Australians.[[3]](#footnote-3) The investigation focussed on complaints from remote Indigenous Australians about the DSP assessment process.

One of the recommendations arising from the investigation was for DSS to require DES providers, to give information to remote Indigenous DSP claimants, those receiving Newstart (incapacitated) and working age income support recipients with longer-term reduced work capacity, of the possible requirement to have completed a program of support if they wish to qualify for DSP into the future.[[4]](#footnote-4) DSS accepted the recommendation. We consider that clear information from DES providers about general program of support requirements would help relevant participants better understand DSP eligibility requirements.

# Aligning Incentives to Support Better Outcomes

### Complaints and feedback

In our view, any outcome-focussed funding model should include a robust and effective complaints and feedback mechanism, not only as a mechanism for people to resolve issues they may have with the delivery of services, but also as a critical element of achieving improved service delivery outcomes and as a fundamental component of effective government stewardship and accountability.

Complaints and feedback can deliver direct information from clients to an agency and their providers about the effectiveness of the programs they deliver. More specifically, complaints and feedback provide early warning about faulty decisions and poor service delivery. They also provide agencies and providers with an opportunity to provide a remedy to a client who has suffered disadvantage, maintain good relations with the public, build client loyalty and ensure systemic problems are identified and dealt with to inform decision making about future service delivery.

In 2014, we conducted an own motion investigation into complaint management by government agencies[[5]](#footnote-5). One of the Ombudsman’s key recommendations following that investigation was that agencies need to ensure their complaint systems meet the needs of disadvantaged and vulnerable people.

In our experience, the long-term unemployed and those who face challenges such as remoteness, a lack of literacy, disability, or homelessness, are more likely to have problems with government and government contracted service providers because it is more difficult for them to access government services through mainstream channels. They are also less likely to complain when something goes wrong.

Improving the efficiency and effectiveness of the delivery of employment services by introducing greater competition, contestability and informed user choice should not happen at the expense of disadvantaged and vulnerable groups. There is a tendency for public sector organisations, with limited resources, to focus their attention towards solutions for the greatest number. This means that disadvantaged and vulnerable people, who require more intensive servicing, often fall through the cracks.

The role of an effective complaints and feedback system is to act as a safety net for these people, to put them carefully back into the system to ensure they are able to access services in the same way as everyone else. Therefore it is critical that complaints and feedback systems are tailored, responsive and flexible enough to deal with the needs of disadvantaged and vulnerable groups. They should focus on the resolution of the complaint for the client, including ensuring accountability by government and contracted service providers where such arrangements exist.

We consider that a robust complaints and feedback framework and a monitoring and evaluation framework is an essential part of an outcomes focussed funding model. Complaints and feedback focus providers on continual service improvement and is fundamental to ensuring service delivery meets the needs of the client and improves outcomes. An evaluation and monitoring framework is essential so the responsible policy department (DSS) can ensure its stewardship of contracted out services and hold providers to account under their contracts.

# Improved Gateway and Assessment Process

We share the concerns noted in the discussion paper about the current gateway and assessment processes which can be ‘time consuming, cumbersome and confusing for job seekers.’***[[6]](#footnote-6)*** We welcome DSS’s proposal to review the current assessment processes and make the following suggestions about aspects to be considered in the review.

The Ombudsman’s own motion on the accessibility of DSP for remote Indigenous Australians[[7]](#footnote-7) made a number of recommendations to address some of the significant challenges remote Indigenous Australians face in accessing and participating in Job Capacity Assessments (JCAs).[[8]](#footnote-8) These included:

* assessors taking a more pro-active role in contacting treating doctors and facilitating specialist referrals when an Indigenous person in a remote area faces barriers in accessing medical evidence
* Indigenous cultural competency and cultural awareness training for assessors that addresses the need for, and use of, Indigenous language interpreters and cultural considerations around disability and self-reporting
* training assessors to thoroughly assess a person’s barriers without placing over-reliance on self-reported barriers.
* the value of conducting face to face assessments where possible, whether in person or via videoconference.

In our view, the issues raised in our investigation are equally relevant to other vulnerable jobseekers who use assessment processes, such as jobseekers from culturally and linguistically diverse backgrounds and jobseekers with cognitive impairments, intellectual disabilities or those mental health conditions. We encourage DSS to consider the recommendations in the Ombudsman’s report in any review of the current assessment processes.

1. In the period 1 July 2015 to 12 December 2016, the Commonwealth Ombudsman received 60 complaints about DES. Of these complaints, 55 were made by participants and 46 were about dissatisfaction with a DES provider. The remaining complaints were about the scheme, the policy or other issues. [↑](#footnote-ref-1)
2. If a person has complaint about their DES provider, they should first complain to their provider, then to the National Customer Service Line managed by the Department of Employment or alternatively to the Complaints Resolution and Referral Service, part of JobAccess, managed by the Department of Social Services. They may also need to complain to the Department of Human Services if their complaint is about their income support payment. [↑](#footnote-ref-2)
3. Commonwealth Ombudsman, Department of Human Services: Accessibility of Disability Support Pension for remote Indigenous Australians, Report No.05/2016, December 2016, <http://www.ombudsman.gov.au/__data/assets/pdf_file/0024/42558/Accessibility-of-DSP-for-remote-Indigenous-Australians_Final-report.pdf> [↑](#footnote-ref-3)
4. Ibid, recommendation 6(b). [↑](#footnote-ref-4)
5. Complaint management by government agencies: *An investigation into the management of complaints by Commonwealth and ACT government*, Report 02/2014, October 2014 – available at <http://www.ombudsman.gov.au/__data/assets/pdf_file/0011/30017/October-2014-Complaint-management-by-government-agencies.pdf> [↑](#footnote-ref-5)
6. Discussion paper, p 47 [↑](#footnote-ref-6)
7. Commonwealth Ombudsman, Department of Human Services: Accessibility of Disability Support Pension for remote Indigenous Australians, Report No.05/2016, December 2016, <http://www.ombudsman.gov.au/__data/assets/pdf_file/0024/42558/Accessibility-of-DSP-for-remote-Indigenous-Australians_Final-report.pdf> [↑](#footnote-ref-7)
8. Ibid, in particular, see recommendations 1, 2, 4 and 5. [↑](#footnote-ref-8)