



Response to the Discussion Paper on new Disability Employment Services from 2018

NDS welcomes the opportunity to provide this submission on the discussion paper examining options for new Disability Employment Services (DES) from 2018. The submission draws on the findings of NDS's consultations with its members as well as additional research and evidence. NDS encourages the government to consider the observations and recommendations contained in this submission before deciding on changes to DES.

Increasing participant choice and control

Transferring between providers

The discussion paper proposes allowing participants to move up to three times in a year and then twice in the following year. NDS agrees with this proposal, on the proviso that certain measures are introduced to minimize the possible negative impacts on providers.

NDS agrees with expanding choice and control for participants and that individuals should have the right to change provider if the service does not meet their needs. However, a breakdown in the relationship – and decision to transfer - could sometimes be directly related to the provider insisting on the participant's mutual obligation requirements. The Department of Social Services (DSS) will need to consider how to monitor this and ensure that transfers in these instances do not adversely impact on a provider's performance.

Providers expend resources in building and maintaining relationships with employers. The potentially disruptive impact of changing providers on the maintenance of the relationship between employer, provider and participant is a reason to limit the number of transfers.

Additionally, providers invest time and effort in assisting a participant to attain employment. If a participant is well on the way to achieving an outcome, the relinquishing provider deserves a pro-rata payment equal to time expended in assisting the individual.

Consideration needs to be given to which provider receives recognition in the performance framework generating the employment opportunity which results in an employment outcome. If a participant is transferring to a new provider late in the Employment Assistance phase, adequate funding and time need to be available for the new provider to assist that individual.

Initial referral

Centrelink should provide participants with a list of registered providers and basic information about them, but should not direct participants to any particular DES provider. Where a participant with activity requirements has not expressed a preference, he or she should be referred to a register of providers and directed to choose one within a specified period of time.

Provider/Participant Contacts

NDS would like to see flexible contact types retained. The frequency and mode of contact should be agreed between participant and provider and subsequently take into account the employer's needs. The first interview or contact should generally be face-to-face to establish rapport and the foundation of a relationship.

Recognised contacts should allow for contacts with relevant parties such as parents, carers, allied professionals, teachers and employers and may not require the participant to be present. All contacts should contribute to the purpose of preparing for and maintaining employment for the participant.

Job Plans

The job plan should be a living document developed between the provider and the participant. It should be aspirational, strength-based and goal-focused with an emphasis on interventions that will assist the participant gain and maintain employment. Mutual obligation requirements should be clearly identified, with more allowance for free text setting out which phase a participant is in, e.g. employment assistance. Items such as resume writing and training goals should be identified and indicate mutual agreement.

Providers should be able to design and upload job plans that meet their needs and those of their participants.

Job plan templates could potentially be used by providers as a marketing tool to attract participants by identifying interventions, services and supports from which they could select.

Ideally, the job plan review process should consider other planning and assessment processes engaged in by the participant, e.g. the school system, the NDIS and other disability service providers. This would enhance service coordination.

Information for Participants

An individual exercising choice among providers requires accurate, clear and concise information. The sources of information should be diverse and include providers

marketing their attributes. Government has a role in facilitating and supplementing this. Centrelink, for example, could provide participants with information – such as specialization, location and performance rating - to assist their selection of a provider. The current star ratings are a blunt instrument and do little to inform job seekers of a provider's capability to meet their individual or specialised needs. Job seekers need other performance information to help them choose a provider.

DES providers currently use testimonials from participants and employers in marketing material. However, interactions with participants that affect compliance or welfare benefits may lead to hostile reviews of providers. This would potentially bias information disseminated through a 'Trip Advisor' model for service provision. While this model is likely emerge in some form, it should not be sponsored by government.

Government does have a role in making available objective information against which participants can evaluate individual providers. The data should include global outcome patterns and trends as well as a provider's success in placing people into employment by disability type, by allowance/benefit type, by sustainability of outcomes and by wages and hours. In their application to register, providers should list the supports that they propose to offer. These supports could then be incorporated into a database and made available through Jobaccess when a jobseeker is looking to access to a provider.

The National Disability Insurance Agency issues Market Position Statements which use available data to assist NDIS providers to plan and invest in service development. A similar approach would assist DES providers.

Participant Controlled Funding

NDS is not opposed to the principle of a portion of funding being participant-directed, but believes that implementing it at this stage would only be worthwhile if the funding was additional to the current allocation to the DES program.

The recent Youth Mental Health Trial found that participant caution and a lack of clear guidelines resulted in only around 50% of account funding being expended. If DES program funding was not spent, participant outcomes could suffer.

Providing a portion of the funds to participants for direct purchasing could create conflict over who – the provider or the participant – is responsible for paying for goods and services.

The performance of providers depends on using their own expertise and experience in securing and maintaining employment, not just on taking direction from participants. Handing all decision-making to participants would make it difficult for providers to be accountable for their own performance.

There are other complexities which would need to be resolved around participant-directed funding. For now, the focus should be on expanding participant choice and agency.

Use of technology

NDS would like to see a strong commitment from government to expanding the access to innovative technology by DES providers, participants and employers in order to increase and enhance the workforce participation of people with disability. Technology is a proven enabler of people with disability and increasingly allows them to reach their potential in a range of life domains.

A greater take up of technology in DES could be achieved through the establishment of a mechanism or entity that drives innovation and research. An emphasis on the increased use of innovative technology should be introduced as a capacity building initiative for the sector.

Driving greater competition

Entering the DES Market

NDS supports the concept of a provider panel that includes a review of membership every 12 to 18 months. Providers should be assessed on their performance over a rolling two-year period. Providers on the panel would need to nominate ESAs, meet QA accreditation and demonstrate compliance with the deed to operate in the market. When panel members nominate for an ESA, they should be required to demonstrate their capacity to operate across the ESA.

Providers would need to be financially viable and able to demonstrate that they have the capacity to provide services and employ staff, as well as having knowledge of local labour market conditions and demonstrated links with local employers.

In respect of how much time providers would need, this would depend on the size of the organisation and its geographic footprint. A large organisation may already be operating in an area providing existing services and not require significant start up time. New providers should be allowed up to eight weeks maximum to establish operations, which would include leasing premises and hiring and training staff.

The caseload requested would depend on the size of the organisation. Organisations should be able to specify an upper limit of cases. Providers should not have the right to refuse a participant if the provider's caseload is below the self-declared upper limit; but, conversely, the provider should be able to refuse a job seeker if the upper limit has been reached.

Participants should not be restricted by ESA in their choice of providers and should be able to approach providers directly. Direct registration for volunteers should be retained.

A Single DES Contract

NDS supports the introduction of a single contract to provide employment services in each ESA. The single contract must allow providers to indicate their preference to be a generalist or specialist provider and a specialism should include not just disability

type but also working exclusively with volunteers (ie participants not subject to compulsory activity requirements). Additionally, providers could indicate if they want to provide employment assistance only or ongoing support as well.

The process for registered service providers applying to extend services to another ESA should not be onerous.

Removing Market Share and avoiding Market Failure

NDS supports the removal of market share as a means of enhancing consumer choice and eliminating the disruption of periodic business re-allocations.

We also support efforts to avoid market failure. DSS should set upper and lower limits of providers in an ESA, and make available to providers information to assist their business planning (eligible participant numbers by disability type; labour market conditions etc).

Effort will be required to attract providers to thin markets, through inducements or incentives. If funding is weighted towards achievement of outcomes, providers may be financially unviable if operating in depressed labour markets. Risk-adjusted outcome payments could assist if they take sufficient account of local labour market conditions and the distance that a job seeker lives from employment opportunities and from the provider. However, other approaches also deserve consideration: for example, use of block grants to mitigate the risk of insufficient or fluctuating cash flow. Other possible measures include a direct employer engagement model; employment of a co-worker; and higher wage subsidies for employers.

Removing market share in some rural and remote areas may deter new providers from entry because of there being no guarantee of a sustainable supply of new participants. In these cases, a form of market share should be considered.

If there is insufficient coverage within an ESA, DSS should be able to invite other registered panel members to enter an ESA.

Regional and rural providers often experience factors that impact on their capacity, including high overhead costs (fuel, for example). Where public transport is inadequate providers often need to arrange their own transport for participants to get jobs. Providers may also struggle to attract suitably trained employment consultants in these areas.

To prevent market failure in regional areas there may need to be a staged transition to an open market.

Employment Service Areas

NDS recommends retaining the existing ESAs – rather than adopting larger geographic areas. Enlarging the areas would effectively exclude smaller providers.

NDS supports making service boundaries more porous for participants. Providers should be physically located in nominated ESAs but permitted to support participants

from outside these ESAs who seek their support. Services should be able to travel outside of their nominated ESAs to provide assistance to these participants. DSS would need to consider how the performance framework would assess providers assisting participants from outside their ESA. Outside participants could be included in the ESA data where the provider is registered.

Aligning incentives to support better outcomes

Ratio between service fees and outcome fees

NDS believes that lifting the performance of the DES program requires lifting the funding. Since access to the program was uncapped in March 2010, the number of DES participants has increased from 108,261 to 184,083 (August 2016), an increase of 70 per cent. This increase in participants has not been matched by an equivalent increase in funding, which has remained at around \$800 million pa over the six-year period. Consequently, funding per participant has fallen significantly in real terms. According to the Productivity Commission's Report on Government Services 2016, average government funding per DES user declined in real terms from \$4,445 in 2009-10 to \$3,657 in 2013-14. DES providers cannot be expected to improve their outcome rates if resources continue to shrink. DES fees must be indexed.

The current 50-50 balance between service fees and outcome fees is about right, in NDS's view. We recognize that the global outcome rate for the program affects this ratio in terms of total expenditure; however, the relevant consideration in terms of influencing provider behavior is whether the structure of potential funding for each participant reflects the structure of effort required to secure an employment outcome for that participant. We are not convinced that shifting funding from service fees to outcome fees could be done in a way that would either enhance program access or improve employment outcomes. Given the nature of participants' barriers to employment, a significant investment needs to be made up front in order to increase the likelihood of an employment outcome.

4-week and 52-week Outcome Payments

Current outcome definitions do not adequately reflect the reality of work in the modern Australian economy. For example, the growth of independent contractors and casual employment should be recognized, as should seasonal employment and school holiday work. In addition, there is evidence that low-skill entry-level jobs for people with employment barriers or little work experience are becoming increasingly scarce, which places further pressure on DES providers seeking to achieve sustainable outcomes¹. NDS would support a form of provider payment that better recognises short-term placements and current labour market conditions.

Although NDS recognises the value of sustained employment, we would only support a 52 week outcome payment if the funding for it was additional to the current DES program budget. In respect of support for job seekers during the 26 to 52 week period, Ongoing support assessments should be backdated to the time the

¹ Anglicare Australia: 2016 State of the Family Report - Positions Vacant: When the Jobs Aren't There

participant achieved 26 weeks in work. The extensive delays in obtaining ongoing support assessments are unfairly disadvantaging providers and reducing their capacity to offer ongoing support following the 26 week outcome.

NDS recommends that the performance framework's weighting of the 52 week outcome sustainability indicator be increased and that the 26 week outcome sustainability weighting be decreased. This would strengthen the incentive to place and support participants in long-term employment. As part of this measure, DSS would need to track all participants progressing to a 52 week outcome. Once a participant exits and becomes an independent worker, it is difficult for providers to collect this evidence.

DSS also needs to take into account the impact of the growth in casual jobs on the ability of providers to achieve a 52 week outcome. These casual jobs are estimated to constitute more than half of all employment gained by DES participants.

In respect of a 4-week outcome payment, NDS recommends that it be determined based on a participant working the employment benchmark three times during four consecutive weeks.

Risk-adjusted outcome fees

NDS supports the principle of risk-adjusted funding, but believes that a trial or in-depth modelling of risk-adjusted outcome payments should be undertaken before it is introduced. DSS has extensive data and should model the impact on providers and on participant outcomes.

The success of risk-adjusted outcome payments depends on assessing risk accurately. While a risk-assessment method is under development and risk-adjusted outcome funding is trialed, the existing funding model should remain, with indexation applied. Risk-adjustment needs to take into account not only the factors listed in the discussion paper but also the severity and complexity of disability. An individual with a moderate intellectual disability invariably requires more support than an individual with a mild intellectual disability. A person with Asperger's may have a high IQ but can only work productively if the work environment is highly controlled with reduced stimuli.

No more than three to five categories of risk-adjusted payment levels should be introduced. Any greater number would be complex to administer and invite disputes about the accuracy of assessments. The most important issue is to ensure that the funding is adequate to provide the assistance that the participant requires.

Pro-rata service and outcome fees

The payment of pro-rata fees should entail a simple formula and reflect the effort involved by a provider. If a participant is nearing an outcome when choosing to leave a provider, the relinquishing provider should receive most of the outcome payment. The efforts of the relinquishing provider should also be recognized in the performance framework.

The provider to which the participant transfers should be given sufficient time to work with the participant, especially if he or she is nearing the end of the program with the relinquishing provider. For example, a participant transferring near the end of 18 months of employment assistance should trigger a six-month extension.

Determining Eligibility and Employment Outcomes for ESLs

Connecting a young person with the world of work before they leave school greatly improves their chances of securing ongoing employment.

Early exposure to employment and/or integrated work experiences during high school has been found to be the best predictor of post-school employment success for youth with disability.

NDS recommends that the eligibility criteria for Eligible School Leavers (ESL) in DES be broadened to include all students with disability of workforce age who elect to participate in employment in their final years of education. The target group should be Eligible School Students.

Students who don't meet the Eligible School Leaver Guidelines should have the option to undertake an Employment Services Assessment (ESAt) to ensure they meet eligibility for DES.

Outcome hours should be reduced to an average of 4 hours per week over 13 weeks or 26-weeks to ensure the student is able to undertake their educational obligations.

The Ticket to Work initiative which NDS operates has been achieving solid outcomes for participants and may offer some direction for DES. Ticket to Work takes a partnership approach to improving the employment and education outcomes of young people with disability. It achieves this by supporting organisations (businesses, DES providers, schools, training providers, local governments etc) in local regions across Australia to build a 'Local Ticket to Work Network' so that they can provide students in their community with career development, workplace preparation, work experience and Australian School-based Apprenticeships and Traineeships.

The introduction of School Leaver Employment Supports (SLES) through the NDIS is also a positive development and enables greater access to these types of transition supports nationally. However, DSS should clarify concurrent program funding rules for SLES participants to enable them to access DES in the same manner as those accessing other Transition to Work supports, for example those accessing Transition to Work in NSW.

Improving the gateway and assessment process

The Gateway

NDS notes the concerns that have been raised about the gateway to DES, currently operated by the Department of Human Services (DHS). It is imperative that participants receive timely and transparent assessments that consider all relevant factors, especially the nature and impact of the disability, barriers to employment and

individual skills and strengths. NDS supports a review and overhaul of the assessment process.

Assessment Review

Assessment guidelines should recognise the differences in people's employment support needs. Assessors with specialist knowledge would be better able to estimate how an individual's impairment would impact on their work capacity.

The WHO Disability Assessment Schedule 2.0 (<http://www.who.int/classifications/icf/whodasii/en/>) would be a very good starting point in developing an appropriate assessment method. Work capacity is the product not just of an individual's impairment but the way that impairment affects their motivation and emotional life and interacts with their social and physical environment. A bio-psycho-social assessment would recognise these multiple influences on work capacity.

Apart from determining eligibility for income support, it makes no sense to retain a bureaucratic process for trying to predict future work capacity in hour-bands without reference to any particular job. Currently an individual's employment benchmarks and their identified barriers to employment do not correlate well. NDS would like to see future employment benchmarks removed. People motivated to work but assessed as having a work capacity of less than 8 hours a week should be allowed access to DES.

Assessment should not be based solely on barrier and deficits. DES providers rightly focus on jobseekers' attributes and strengths that enhance their likelihood of gaining employment. Often assessments are conducted too quickly and fail to identify all relevant factors.

Assistance in the workplace

Ongoing Support

NDS is concerned at the low number of DES participants using ongoing support. One reason is that, over recent years, ongoing support assessors have focused on crisis support rather than maintenance support. NDS recommends that ongoing support be redesigned to focus on maintaining a job rather than crisis intervention. NDS supports a non-mandatory skills review after 12 months to identify if the participant needs training in new skills, consistent with typical career progression.

NDS opposes further restrictions on provider access to ongoing support funding. Ongoing support should be provided as required and the interventions audited annually through the ongoing support assessment (OSA). The funding should be determined by the current OSA based on the level of support provided over the previous 12 months. If the OSA determines that the level of support provided during the previous year was less than the funding level, the provider should retain the under-used portion of funds to support other participants who required more support than was funded. Ongoing funding should be adjusted to reflect actual support needs for each participant for the year ahead.

Contacts should include not just time spent with the participant but with other relevant parties, as long as the contact is directly relevant to the participant maintaining their employment. This could include, for example, conversations with parents and carers or assistance to locate accommodation.

People in ongoing support working less than eight hours should retain eligibility for ongoing support but the support provided should be aimed at increasing their work hours or locating a new job with more hours.

Job-in-Jeopardy

The new program must ensure employees with disability can obtain support to retain their job in a timely manner.

The concept of Job in Jeopardy is too narrow. It should be simply the provision of support at the time employees with disability most need it e.g. the employee has a new supervisor or is changing of jobs. The existing guidelines are flawed. They require the employer to state that a job is at risk because of the employee's disability, which provokes concerns among employers that they would be breaching discrimination law.

Additionally, the funding allocated needs to recognise that significant interventions may be required either to assist the individual to undertake the inherent requirements of their current position or to move to an alternative position. The new DES program should allow the participant to use the support provided to either upskill in their current position, move at an alternative position with the current employer or move to a new employer.

NDS recommends that Job in Jeopardy be rebadged Employment Support.

Building employer demand

Initiatives to create employer demand for employees with disability need to be built on an understanding of the real operational requirements of employers and, ideally, to use channels that have the ear of business, such as industry associations and business peaks. The most persuasive recruitment strategy is demonstrating how DES participants can enhance a business's bottom line. More than 80% of employers surveyed endorse this approach as the most valuable.

Two key factors are important in engaging employers:

- seeing DES providers as partners or 'trusted brokers' who can help employers solve a particular workforce problem or respond to an operational need of the company; and
- competent help from DES providers that addresses their needs.

DES needs to improve demand-side engagement. A successful strategy would match individual job seekers to workplace tasks and employer demands. Successful

DES providers develop relationships of trust with employers, so that the presumption of a jobseeker's employability becomes a commonly-held expectation.

Transition issues

The steady reduction in DES funding and high compliance burden on providers have resulted in providers controlling their costs through reduced staffing and reduced investment in staff training.

Over the last five years the DES sector has lost expertise in best-practice disability employment support. NDS has proposed that a national research entity be established, in partnership with universities and government and groups representing people with disability, families and carers and service providers. Research and knowledge dissemination in the field of disability employment support should be a priority for such an entity. The national entity (which could be structured like AHURI) would:

- work with universities and the VET sector to inform and develop quality training for disability employment consultants
- research and identify evidence-based practice and translate this into learning materials for DES providers
- assist the sector to understand and use technology that enhances the employment participation of people with disability.
- support the understanding of trends in the structure and nature of work

As argued above, in readiness for the 2018 contract, risk-adjusted funding should be thoroughly tested, in a manner similar to the Youth Mental Health Trial.

The transition strategy should give existing providers in current ESAs an orientation period of 18 months, after which new providers could apply to enter those areas, unless there is market failure, which would justify earlier entry.

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National Disability Services

Submission on the Discussion Paper on new Disability Employment Services from 2018

National Disability Services is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes 1100 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services - from accommodation support to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.