

Submission in response to the *New Disability Employment Services from 2018 Discussion Paper*

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ABOUT JOBS AUSTRALIA

Jobs Australia is the national peak body for non-profit organisations that assist unemployed people to prepare for and find employment. We help our members make the most effective use of their resources and promote the need for services that will help unemployed people to participate fully in society.

We provide an independent voice for members who range from large charitable organisations to small local community-based agencies. Jobs Australia is the largest network of employment and related service providers in Australia and is funded and owned by its members.

Jobs Australia members are non-profit organisations that help unemployed people to prepare for and find employment.

Typically, Jobs Australia members do some or all of the following:

- Deliver services under Commonwealth and/or State Government funded programs, such as Disability Employment Services, jobactive (including Work for the Dole), Community Development Program, Transition to Work, Skills for Education and Employment and similar State Government programs.
- Deliver accredited or non-accredited training for unemployed people as Registered Training Organisations, Group Training Organisations, apprenticeship centres, social enterprises and other non-profit training and education institutions.
- Deliver similar employment and training services to unemployed people without any government funding.

ABOUT THIS SUBMISSION

This submission is a response to the *New Disability Employment Services from 2018 Discussion Paper*, published by the Department of Social Services.

It responds to the questions in the paper, which can be downloaded from the Department of Social Services via this link: <https://engage.dss.gov.au/disability-employment-services-reform/>

The submission is informed by our broad and extensive experience of employment services systems, the available research and evidence and consultations with our members, including a series of three webinars, feedback via an online platform and one-to-one communication.

INTRODUCTION

While the performance of DES has plateaued and fallen slightly in recent times, it should be recognised that outcome rates achieved in DES compare very well internationally. This is despite:

- Australia investing significantly less in labour market programs than other comparable countries.
- Long-term unemployment being a serious problem in Australia, with a growing proportion of people on unemployment payments being long-term unemployed, or at high risk of unemployment because of factors such as having a disability.
- The quantum of administration and red-tape in DES has continued to rise, despite good intentions on the part of the Department to reduce it. The result is that too many resources are spent on ensuring compliance requirements are met, and, as a consequence fewer resources are available to support high quality service delivery and innovation and to help participants into sustained employment.
- DES Service Fees have not been adjusted to take account of price movements since 2010, making it more difficult for providers to apply sufficient resources to services to in participants to help them achieve employment outcomes.
- Tightening of the definition of employment outcomes in DES, which has made them more difficult to achieve and made it more difficult to make meaningful performance comparisons over time.
- Ongoing and systemic employment discrimination against people with disability, as identified, for example, by the recent Willing to Work Report of the Australian Human Rights Commission.

Despite the achievements of DES in somewhat challenging circumstances over the past few years, it is recognised that there is room for improvement and that a reformed DES performing at an optimal level should deliver more and better outcomes for the citizens with disability whom it serves. For those reasons, the overall direction of DES reforms outlined in the Discussion Paper is strongly supported.

The reforms which emerge from this process should enable providers to offer a model of high quality and innovative service that centres on individualised case management, improved services for employers, more choice, control and agency for participants and, as a result, higher levels of performance.

The reform process is a complex one, with many different and interlinking issues, factors and considerations to be taken into account. All stakeholders in this process recognise and accept the need for change and improvement and share the important common goal of assisting more people with disability into sustained employment. They deserve nothing less.

The nature of the process which has been adopted by the Department in the iterative process of considering and designing reforms has been very collaborative, inclusive, open and transparent. We are confident that it can yield desired performance improvements and set DES up for a bright and successful future in the evolving and rapidly changing world of work in which it will be operating.

Our responses to the discussion points in the Discussion Paper are set out below.

RESPONSES TO DISCUSSION POINTS IN THE CONSULTATION PAPER

1: MORE CHOICE FOR PARTICIPANTS

1.1 What, if any, restrictions should there be (for example, region or distance) on participants choosing to attend a provider?

- Participants should be able to choose a provider in an adjacent defined geographic region, as is already happening now in DES for volunteers across ESAs.
- When a provider is chosen, it needs to be established between the participant and the provider that the participant has access to necessary transport and can be reasonably expected to be able to attend face-to-face appointments or engage with the provider by other means as required and agreed.
- If a participant is not able to attend appointments in an adjacent ESA because of distance or access to transport, their choice of provider should be reviewed.

1.2 How often should participants be allowed to voluntarily transfer or switch providers?

- The proposal to allow for transfer or switches of up to three providers in the first year and up to two in each year thereafter is supported.
- In order to increase the opportunities for choice under the new approach, and achieve the objectives of promoting competition and high performance, DSS should contemplate allowing for additional transfers for reasons outside those limits, such as “relationship failure”.
- Volunteers could be offered more opportunities for changing providers than people with participation requirements. If DES is going to be successful at attracting more volunteers into services, this may require volunteers being able to experience a stronger sense of choice, along the lines of the NDIS.
- Limiting choice for participants with Mutual Obligation (MO) requirements will help to avoid participants changing providers because a provider is doing their job of reporting non-attendance or failure to meet other requirements in a participant’s Job Plan. This will help to manage the expectations of MO participants and also to help avoid some participants churning endlessly through providers without progress to seek to avoid their obligations. To the extent it is possible; transfers should not proceed before outstanding compliance issues are satisfactorily resolved.
- It should be contemplated that some providers might be happy for disengaged or highly disadvantaged participants to switch providers, and may even encourage transfers. There will need to be mechanisms or incentives in place that take account of this to prevent providers from engineering changes in choice of provider. Restrictions on the nature of contact with participants by providers who might seek to encourage transfers to them (which might unkindly be referred to as “poaching”) also need to be considered – while recognising that providers should be free to promote their services to a reasonable extent.

1.3 What should be the basis of referral by Centrelink for participants who do not choose a provider?

- Every effort should be made to try to ensure that the very great majority of participants are given all of the information they need to be able to exercise meaningful choice of provider before any consideration is given to making choices for them.
- The Discussion Paper proposes that the default position for those who don't choose is to refer to higher performing providers. On the face of it, this might be a reasonable approach in cases where all efforts to encourage and enable participants to make choices (including with assistance of external and independent advocates and advisers) have been unsuccessful, provided that the relevant service is accessible to the participant. Different arrangements will be needed for specialist providers and in cases where more than one provider is an equal high performer. Another option is that people who don't exercise choice could be randomly referred by Centrelink on an equitable basis to a provider on the panel in a defined geographic region. This might lead to people being referred to underperforming providers, which would not be a desirable outcome.
- There will need to be adequate arrangements in place for participants who need assistance to exercise choice and otherwise engage with a DES provider.

2: PROVIDER/PARTICIPANT CONTACTS

2.1 Should face-to-face requirements remain as part of the DES service delivery?

- Initial contacts should always be face to face unless there are very exceptional circumstances which prevent or militate against that occurring. Face-to-face contacts should not need to be at a specified "office" and could include another agency or facility. Other contacts might be conducted through a variety of other electronic means including, phone and Skype or video calls, email and instant messaging or other forms of social media. The choice and nature of such contacts and interactions should be agreed between providers and participants and not prescribed by the Department.

2.2 How often should participants and providers be required to meet, either face-to-face or by other means?

- A minimum frequency of contacts might be prescribed and required (and particularly for participants with MO requirements) but providers and participants should be able to agree to the mode and frequency of contacts beyond any set minimum.
- The system needs to be able to respond flexibly if a mode of contact isn't working effectively and was leading to disengagement or lack of progress. Providers and participants between them should be left to agree on more intensive modes of engagement where necessary.

3: JOB PLANS

3.1 Should Job Plans have minimum requirements beyond what is necessary for mutual obligation requirements? Or should this be determined between each participant and their provider?

- Job Plans recorded and maintained on the Department's IT system should be limited to the minimum parameters and requirements required for Mutual Obligation purposes for

relevant participants. The Department should ensure, to the extent possible that the IT system for DES also supports provider use of “other” Job Plans if they choose to use the system for that purpose.

- Providers should be encouraged and free to develop other plans and agreements which set out what each party can expect of the other and which enable, foster and encourage better engagement and more outcomes.
- In both cases (MO and “other” Job Plans), participants need to be actively encouraged to bring providers to account for delivery of their side of their plan and to be made aware that provider failure to meet their side of the bargain should be grounds for at least considering seeking a transfer.
- Participants should also have more involvement in the development of, and agreement with, their Job Plans and be fully informed about that - so they are a real and genuine agreement and the process affords the participant an appropriate and sufficient level of agency in the process.

3.2 How can we ensure that participants are actively involved in the development of their Job Plans, or will the ability of participants to change providers if unsatisfied be sufficient?

- The paper contemplates giving individuals the chance to ‘shop around’ (presumably for a limited but reasonable period) for a Job Plan before locking themselves in to a particular DES provider. This might ensure participants are more involved in the development of their Job Plan and more committed to achievement of their goals, and it will put the onus on providers to come up with Plans that are tailored to people’s needs and reasonable aspirations.
- The “other” Job Plan should be a tool that is engaging, motivating and encourages people towards setting and achieving their goals. DSS should consider development of a new “other” Job Plan app or website tool that better engages, motivates and encourages DES participants towards undertaking activities. The redesign of the Job Plan in the Department of Employment’s Transition to Work program provides a useful model for future DES which could be adapted and adopted by providers with or without the assistance of the Department. Some of the key elements and features of a redesigned tool could include an approach which:
 - is engaging, intuitive to navigate, have easy to understand language and uses visual-based communication over text;
 - supports conversations that build rapport and help people better understand themselves to make good career decisions, such as identifying strengths and interests and linking them to employment goals;
 - puts the participant in the driver’s seat, with support and guidance from their provider. The participant can view, create and update information. Increased interaction and involvement leads to greater ownership;
 - can be updated at any time, from any place;
 - provides a clear mapped out view of a participant’s journey. It tracks and visualises progress and celebrates achievements;
 - encourages desirable behaviours, such as reminders, to do lists and time management tools;
 - supports changes in direction, and helps people readjust their goals and activities when they need to adjust their interests, goals or preferences; and

- supports a tailored, flexible approach, and integrates (to the extent necessary) with ESS and other third party tools.
- It is essential that, in cases where participants require or need it there are opportunities for advocates to be involved in creation of both types of Job Plans and for regular reviews.

3.3 How should providers be held accountable to ensure activities in the Job Plan are undertaken and supports are delivered? Will the ability of participants to change providers if unsatisfied be sufficient?

- The ability of participants to change providers should be sufficient in most cases, provided they are well and fully informed on referral (and perhaps also during their participation) about what is expected of them and what they can reasonably expect of providers and about their options in the event that they believe their reasonable and agreed expectations are not being met.
- For some participants less willing or able to exercise choice, or in thinner markets, independent advocacy advice and assistance should be made available in relation to reviews.

4: BETTER INFORMATION FOR PARTICIPANTS

4.1 What information should be available to participants, providers and employers?

- Participants need access to good information, to help them make sound choices about which provider to go to.
- The Paper identifies a wide range of information that should be available to DES participants, including services available, funding attached to participants, provider performance, assessment information and eligibility for DES services, user ratings and feedback. It should also include information about a provider's employer relationships, their approach to Job Plans, and other aspects of their service delivery offer.
- DSS should consider introducing consumer-driven satisfaction ratings (like Trip Advisor, for example) as a means of informing consumer choice, complemented by the existing star ratings measure of provider performance. This might be complemented by similar services or opportunities to provide feedback which are operated by independent consumer organisations.
- Data on outcome rates by disability type is currently published twice yearly on the Labour Market Information Portal. This data could better support participant choice of provider if it was made more readily available and accessible.
- Providers need quality information about participants' needs so they can best tailor services. Initial assessment reports conducted by Centrelink will continue to some extent assist providers to develop a good initial understanding of people's needs and to begin to frame effective strategies for meeting them. These initial reports will not supplant or otherwise the need to providers to make their own iterative and more comprehensive assessment of needs to inform developing of servicing and support strategies
- Employers need information about benefits, incentives and supports available, and how to go about employing a person with disability. There are opportunities for government to promote these things through such means as national awareness campaigns, including

JobAccess – workplace modifications and assessments, wage subsidies, workplace support, Supported Wage System (SWS), NDRC, links with DES providers, advice on recruitment and retention, strategies and plans. There will continue to be an important onus on DES providers to develop and implement their own strategies for effective engagement with and support of employers.

4.2 Should there be mechanisms to ensure no false or misleading claims are made against DES providers?

- If participants do not trust the information that is available to them about providers and the services they offer, the information will not be valued and it will not inform good choices. Worse still, information that is false and misleading is likely to lead to bad choices and less than optimal outcomes.
- To help prevent false claims made by participants or others against DES providers, the publication of comments about providers needs to be moderated. The possible implementation of a new online user ratings system might usefully draw from the past experience of other consumer-ratings systems such as Trip Advisor, JobVoice and clickability. Options for appropriate moderation include giving providers an early right of reply, and ready access to an independent complaints resolution process.
- In addition to having opportunities to provide information about dissatisfaction and complaints, consumers should also have opportunities to provide positive feedback about their experience. The onus will be on providers to provide quality services to have effective engagement with participants and to deliver good outcomes which happy and satisfied participants can report on.
- In the new model providers must not be permitted to make false and misleading claims, consistent with relevant consumer protection legislation. The Department needs also to ensure participants have ready access to information about their rights under consumer law and the avenues they can pursue when they have a complaint or grievance about provider claims. Further, providers must not be allowed to offer untoward inducements to influence participant choices.

4.3 Role of Department in facilitating access to information

- DSS should provide basic minimum information, and leave it to providers to facilitate access to additional information by means of their own choosing.
- Participants need access information at critical choice points. The Department could create an online dashboard setting out key information relating to choice which is continually updated and accessible to participants. There is a clear role for Centrelink at commencement to support good provider choices without inappropriately influencing such decisions.
- Participants need to be able to access information easily and on an ongoing basis.
- In relation to user satisfaction ratings, it's likely that participants will prefer to access independent sources of information, rather than from government.

5: PARTICIPANT CONTROLLED FUNDING

- While the principle of individual funding based on needs and aspirations is supported, placing funding under the direct control of the participant is not the best way to go.
- On balance it is preferable to allow participants to choose their own provider, to move between providers – with funds following them to the new provider is more likely to achieve improved outcomes - rather than placing the funding under the direct control of the participant - with all the attendant administrative burdens and potential for disputes and misunderstandings. Participants should also have more involvement in the development of, and agreement with, their Job Plans - so they are a real and genuine agreement and the process affords the participant an appropriate and sufficient level of agency in the process.
- In order to maintain a strong focus on the achievement of employment outcomes in DES, it's necessary to hold providers responsible for the achievement of outcomes, and ensure they are paid accordingly. Giving participants control of funding could make it harder to measure provider performance, and make it more difficult to attribute the attainment of an outcome to services delivered by the provider. Participants should be able to direct or influence allocation of funding via their Job Plans and their agreement to the activities they contain.
- The paper makes the point that some services purchased under the NDIS, like personal care, are fundamentally different from employment services:
 - Personal care services are ends in themselves, while employment services are a means to the achievement of another end – a job with an employer; and
 - An individual receiving personal care services may become an expert in assessing the quality of the care they receive, but they may need a lot of specialised employment services assistance and advice to overcome their employment barriers, including their disability, to get a job. The argument here is that giving money to participants to spend will not necessary lead to more employment outcomes.

5.1 There is considerable literature and experience in participant controlled funding in personal care. Is there any evidence of the effectiveness of participant control of third party funding in employment services?

- The recent Youth Mental Health Trial did not demonstrate evidence of improved employment outcomes. In fact the participants achieved lower employment and education outcomes than the control group, and most of the \$5,000 Career Accounts made available to participants was unspent.

5.2 In such a model, how much funding, if any, should be quarantined for job seekers to use through an account, how should this funding be made available to participants, and how could there be simple clarity as to what costs are to be met from participant controlled funds versus provider controlled funds?

- If there is any participant-controlled funding, it should be a relatively small proportion, with defined categories of spending that people could exercise choice over. It should also be consistent with the agreed Job Plans and funding to be applied could be estimated for relevant elements of Job Plans.

- Options for individualised funding within the new model include not restricting it to participants in Employment Assistance, but making it available to those in Post Placement Support and/or who have achieved an employment outcome and are in the Ongoing Support phase of services. This might support employment retention and career development.

5.3 What principles should guide the appropriate expenditure of any individualised funding?

- In the event that any portion of available funds were to be allocated to participants (and that proposition is not supported), the principles which might apply to expenditure could include that goods or services purchased:
 - are consistent with Job Plans;
 - provide eligible participants with the work-related tools, skills and experience that correspond with their difficulties in finding and keeping a job in the relevant labour market ;
 - that do not duplicate services or goods which are purchased or delivered by DES providers for the individual concerned;
 - provide value for money;
 - comply with any work health and safety laws that may apply ;
 - withstand public scrutiny; and
 - will not bring DES or the Government into disrepute.
- Purchases would need to be consistent in some way with activities and goals in the Job Plan.

5.4 What restrictions should apply to the use of the funds by participants?

- Purchases or reimbursements should be made by the provider on the participant's behalf, rather than controlled by the participant.
- If funds are made available to participants, their allocation or expenditure should be consistent with Job Plans and restrictions on the use of the funds should apply to:
 - General employment services that the provider is already funded to provide, such as job search training, resume writing, job applications, interview skills development, assessments, contacts and reverse marketing;
 - Gifts, cash and incentives, including paying loans, credit cards, fines or court fees;
 - Goods or services that are already funded by Commonwealth, state, territory or local governments; and
 - Wage Subsidies paid to employers.

5.5 How can participants who are unwilling or unable to use individualised funding be supported during the decision making process?

- Decisions about use of individualised spending could be made by the provider or by an independent advocate, consistent with agreed activities and goals in Job Plans.

5.6 What restrictions should apply to the expenditure of the funds on services from a participant's provider or an associated organisation?

- No further restrictions above those set at out 5.4 should apply to expenditure on services from a participant's provider or associated organisation. The expenditure should be consistent with the guiding principles and any restrictions and would necessarily be subject to monitoring by the Department.

6: ENTERING THE DES MARKET

6.1 How often should the panel be open to entry by new providers?

- The panel should be opened to new providers every 12 months. The process should be aligned to any business "review" process but also independent of that process.

6.2 How often should panellists be reviewed and what criteria should they be reviewed against?

- Panellists should be reviewed at least every 12 months. Criteria for review should include whether star ratings have fallen below acceptable levels and measures of compliance and/or quality benchmarks and requirements.
- By exercising choice, participants will also play an important and useful role in monitoring and reviewing provider performance.
- The timing of the initial review process should take account of the time necessary to establish statistically valid star ratings.

6.3 What should the basic criteria be for joining the panel?

- The set of minimum criteria for joining the panel identified in the Discussion Paper, based on capability, capacity and risk, is supported. This includes meeting the National Standards for Disability Services, being financially viable, robust organisational governance, demonstrated ability to deliver quality DES services and sufficient outcomes in specified geographic areas and labour markets and to special groups where that is relevant, and maintaining minimum performance levels.
- To facilitate effective and efficient transition to the reformed DES in 2018, and to significantly reduce the costs and burdens of procurement processes for the providers and the purchaser, the Department should actively consider automatically admitting existing DES providers performing at 3 stars or above to Panel membership in areas or locations they currently service. Such an approach would significantly reduce the costs and time needed for all concerned – Department and providers alike.
- At very least, the Department should not require organisations which are existing providers to again demonstrate they meet appropriate and stipulated governance and organisational management requirements and to therefore only satisfy the Department about their ability to deliver quality services which take account of local area labour market and other relevant factors.

6.4 How much time do providers need before entering into a market to set up their operations?

- The time needed would be subject to the circumstances of each provider, but generally of the order of three months' notice would be needed prior to setting up operations.

6.5 In order to supply DES in a specific ESA what should the requirements be for:

6.5.a A minimum caseload?

- A viable minimum caseload may vary according to the circumstances of each provider and local conditions, and should be left to providers to determine.
- The number of Panel members should initially be limited to a number which will foster market stability and mitigate against market failure and instability.

6.5.b ESA coverage?

- It is accepted and understood that most Panel members might be required to offer services to the whole of define geographic areas so as to ensure adequate coverage of services in any area.
- All Panel members should not be required to demonstrate full coverage of any defined geographic area, as this could prejudice the continued operation smaller providers, with well-developed local connections and track records but with limited aspirations or appetite for expansion and to financial capital, who may seek to operate more selectively in smaller areas to remain financially viable.
- A mix of providers should be available across each defined geographic area wherever possible to support choice and promote competition while also fostering market stability.

7: A SINGLE DES CONTRACT

7.1 Would all providers have the capacity to deliver DES-DMS, DES-ESS and Ongoing Support under the proposed simplified contract arrangements?

- The proposal to combine the two DES programs under a single simplified contract is supported. It is a widespread view that a single program is workable and appropriate.

8: REMOVING MARKET SHARE RESTRICTIONS

8.1 What mechanisms should be adopted to ensure universal coverage in an ESA while maintaining a competitive marketplace?

- There needs to be enough flexibility to ensure full geographic coverage but also that small providers aren't overextended or unreasonably weeded out just because of their size. As noted above, the Department can require that a sufficient number of Panel members offer

whole of area coverage and can at the same time allow for some Panel members to provide services limited to smaller areas and/or to particular groups.

8.2 How should provider diversity be maintained to ensure participants have adequate choice of provider?

- By ensuring there are sufficient numbers of providers on each area Panel and perhaps a sufficient mix of providers with different approaches to service delivery, as well as some smaller and specialist providers. In thin markets, the Department may need to offer differential and higher pricing and may need to undertake fee for service purchasing in very thin markets – which choice might necessarily be limited to ensure ongoing and viable service provision.
- Panel members should be encouraged to engage subcontractor organisations, including for-profit service providers, not-for-profit service providers, local councils, organisations with a background in the employment services sector and organisations specialising in the delivery of employment services across multiple sectors. In expressing preferences for prospective panellists to propose appropriate sub-contracting preference could be given for tenders/panellists offering services with as many subcontractors as makes servicing and commercial sense.
- This provides a recognition that in local communities the best outcome might be to engage local established providers in the provision of services as opposed to have a new services provider come to “town” to try and establish an office, employing people, the employer and support linkages – the focus being on establishing a service rather than service provision. Through this process engagement of two to four local established organisations should ensure adequate choice for the locals. At the same time if a new office needs to be established to attract the persons requiring services then adequate funding would be available to acquire the appropriate services.

9: ESAs

9.1 Should there be ESAs, if so, how many ESAs should there be?

- The existing ESAs were originally framed around natural labour markets. They should be retained because they are framed around natural labour markets and to ensure that small providers with limited access to financial capital and good track records are able to continue to deliver DES. Partnerships with other providers to form up groups capable of covering whole and larger employment regions in jobactive have not been successful in most instances. Having larger regions would reduce administrative costs and convenience for the purchaser and perhaps for some large providers, but this would take out small providers who don't have the cash or the interest in expansion. This occurred in in jobactive in 2015, when the number of providers contracted to deliver services in the larger regions was halved.
- The Department should retain ESAs and should admit providers to Panels for service delivery to only parts of ESAs. There will need to be Panel members who commit to servicing whole ESAs and special arrangements for "thin markets" - where there might be a limit on Panel members or perhaps only one provider and no participant choice.

- The people with a disability requiring service and their locality can easily be identified. The services required could be delivered in a locality that is proximate to the person or via face to face and then digital means or by being choosing to attend a prescribed office.
- From the point of view of the person requiring the services the ESA is an administrative requirement to enable the Department to manage the market and in particular to monitor and manage performance.
- ESAs will remain relevant where providers are awarded rights to deliver within an ESA, even if participants can cross borders. Entering and exiting ESAs where these rights subsist will necessarily have to be on the basis of a performance measure. From a local provider point of view performance review based on local markets will be more equitable as opposed to larger geographies where they may not have coverage.
- Retaining the current 110 ESAs would provide continuity and minimise disruption for providers and participants. This would allow for a smoother transition to the 2018 model. Participant choice should be enhanced in this model by allowing participants to cross ESA borders, allowing them to choose whichever provider they wanted, removing the need to increase the size of ESAs to improve participant choice.

9.2 Should the number of ESAs be reduced if market share is removed?

- No, existing ESAs should remain.

10: PREVENTING MARKET FAILURE

10.1 What specific circumstances should be recognised as market failure warranting intervention?

- Specific circumstances indicating market failure include:
 - Participants indicating service levels from available providers are inadequate for them getting a job;
 - Majority of providers in an ESA are at 2 stars or lower; and
 - Providers withdrawing from an ESA.
- Caseloads below minimum viable levels would signal too many providers are in the ESA and might well lead to provider failure, market instability and associated reputational risk in relation to the system itself and should therefore be avoided.

10.2 If market share is continued in some areas, how should the level of market share be determined?

- In regional areas very specific analysis of the number of participants, their main service towns etc should inform decisions about viable business levels and therefore the number of providers.
- Where caseloads are very low, choice should be protected by allowing two providers to service the same location perhaps on outreach or pop-up basis when there is demand from participants. In these circumstances flexibility in the mode of service delivery will be required,

reducing restrictions on the ongoing need for face-to-face contacts and allowing service by digital means, outreach or pop-up basis when there is demand from participants.

- In that context it should be recognised that there may be a very small number of areas with very low numbers and widely dispersed eligible participants which might necessitate limiting Panels to only one provider or special purchasing and procurement arrangements which also necessarily limit or prevent choice.

10.3 What interventions should be used to address market failure and ensure service availability?

- See 10.1 and 10.2 above.
- The Department should also identify ESAs that are at risk of market failure based on initial panel composition as well as ongoing performance monitoring and introduce interventions that aim to reduce or eliminate the risk including:
 - Rebalance the risk adjusted pricing levels for participants in the ESA;
 - Restricting the number of providers in an ESA;
 - Requiring providers to expand coverage within an ESA, or to another ESA; and
 - Inviting a new provider into the ESA.

11: RATIO BETWEEN SERVICE FEES AND OUTCOME FEES

- The available evidence base and research would indicate success of outcome-based funding at achieving better employment outcomes for people with disability is not assured. The weight of evidence is that investment based approaches and active labour market programs deliver better outcomes. Given the challenges that DES participants face in preparing for, gaining a role and sustaining it, they do require greater investment over time to address these challenges.
- The Department is seeking to shift the balance of actual expenditure between service and outcome fees such that expenditure between the two would be closer to a 50:50 split, on current rates of participation and outcome. Further the aim being to leave total expenditure (and so total revenue to across all providers) unchanged. This would entail paying lower rates for service fees and higher rates for outcome fees.
- Any rebalance of fees, must ensure that participants are adequately invested in and supported through the pathway to employment. The risk is that making more funding contingent on outcomes will result in more conservative or reduced expenditure on participants due to uncertainty about overall revenue. Further reduced service fees will reduce the investment available to providers to deliver services.
- The Discussion Paper canvasses changing payments to providers so they are motivated to help the hardest to place into employment outcomes rather than parking them and relying on service fees. But it also acknowledges that too much of a focus on outcome payments can be detrimental and actually contribute to unintended consequences and “sharp behaviour”, such as parking and short term employment placements.
- The Paper correctly recognises that more intensive services are needed to address the barriers to employment that arise from a significant disability, in addition to other barriers to employment. The new model will need to be able to deliver on the services people with disability need to achieve higher rates of employment outcomes. Removal of defined market

shares and movement towards increased capacity for participants to choose and change their provider, the financial risks of operating as a provider will necessarily increase. Tilting the ratio between service and outcome fees towards outcomes will further increase financial risk. If the balance is tilted too far towards outcome payments, the additional up-front financial burden involved would mean that only providers with sufficient reserves of financial capital would be able to operate. Smaller scale providers with limited financial reserves would be less able to fund the delivery of quality of services and compete with bigger providers. The result could mean the exit of smaller, but effective providers from the market, and the undesirable result of a reduction in choice and control for participants.

- If Service Fees were to be significantly lower in the new model, then something like the jobactive Employment Fund will be necessary to support investment in participant capability. While this might provide increased accountability and transparency on expenditure on participants that isn't currently available in DES but carries a very high risk of excessive additional administration and red-tape and should be avoided if that is possible.

11.1 What should the ratio between service fees and outcome fees be and why?

Fees should be rebalanced on the following basis:

- Quarterly service fee be reduced from 52.5% to 40% – rebalance to more outcome based funding, and to recognise that ongoing support costs should be regarded and treated not as service fees but rather as resources necessary to sustain outcomes – if ongoing support were treated as they presently are as service fee outlays and revenues for providers our proposed and notional ratio of service to outcome fees – would be 48% to 52%
- Overall outcome fees have been increased marginally in order to allow for the risk – adjustments required and to incorporate ongoing support
- Introduce a 4 week outcome fee and ensure it is significantly funded to encourage investment in participants to commence and sustain a job for at least 4 weeks. A 4 week minimum would not preclude providers taking a chance with some job placements, but would reduce incentives for very short term placements. A 4-week outcome is a milestone payment for initial matching and trialling of a participant in a job. Providers should have access to up to six 4-week outcome payments per participant annually, where several attempts are needed to find the right sustainable job for the participant, while at the same time enabling the participant to gain valuable experience.
- Maintain the level of funding for ongoing support – but incorporate it in outcome outlays.
- Balance the outcome fees for 13 and 26 weeks to ensure that they continue to drive the appropriate investment in the participant employment pathway.
- Introduce a bonus outcome payment for 52 weeks – as an incentive to supporting long term employment outcomes.

The following tables represent current apportionment of DES expenditure and the proposed changes set out above:

DES Outcome and Service Fee Expenditure 2015-16 (ex-GST)		
Type	Spend	% of Total
Quarterly Service Fees	\$387m	52.5%
Ongoing Support	\$58m	8%
SERVICE FEE TOTAL	\$485m	60.5%
Job Placement Fees	\$40m	5.5%
13wk Outcome Payments	\$114m	15%
26wk Outcome Payments	\$139.5m	19%
OUTCOME PAYMENT TOTAL	\$253.5m	39.5%
GRAND TOTAL	\$738.5m	100%

Example DES Outcome and Service Fee Expenditure 2018 (ex-GST)		
Type	Spend	% of Total
Quarterly Service Fees	\$295m	40%
SERVICE FEE TOTAL	\$295m	40%
4 Week Outcome Fee	\$147.7m	20%
13wk Outcome Payments	\$88.6m	12%
Ongoing Support	\$59m	8%
26wk Outcome Payments	\$110.8m	15%
52wk Outcome Payments	\$36.9	5%
OUTCOME PAYMENT TOTAL	\$443.1m	60%
GRAND TOTAL	\$738.5m	100%

12: 4-WEEK AND 52-WEEK OUTCOME PAYMENTS

- A bigger emphasis on employment outcome payments, including the proposal for 4, 13, 26 and 52 week outcome payments, may help to better ensure that quality placements and support are in place.
- In relation to the introduction of new risk-adjusted outcome fees, the quality of the data that is used to calculate risks will necessarily influence the quality of the risk adjustment. This means that assessments of participant risks will need to be accurate and reliable, so it's good that DSS is committed to improving the gateway and assessment process.
- Also having higher payments in harder labour markets means that the data used to measure labour market conditions needs to be timely and high quality, to achieve the Paper's goal of aligning incentives with performance.

12.1 What should constitute an employment outcome under DES in a modern Australian economy?

- Given that the nature of employment is undergoing such a revolution at present, it would make a lot of sense for paid employment outcomes under DES to be able to accommodate the new ways in which people are being paid to work.
- With most growth in employment part-time, and full-time employment growth stagnating, DES will need a flexible definition of outcome that takes account of the increased precariousness of employment, the rise of the gig or platform economy and non-traditional arrangements for seeking, supplying and paying for labour.
- The new and disrupted economy may offer new positive opportunities for people with disabilities to get paid for their labour. It may offer new ways of avoiding discrimination associated with the traditional recruitment process, to enable people to work from home, and to become self-employed.
- The reformed DES will be expected to deliver higher rates of employment outcomes, so it seems inevitable that it will need to recognise new types of employment or work outcomes, in a world where labour is increasingly being purchased via means such as online platforms and short term contracting arrangements. The approach taken to this issue will need to be reviewed and modified over time as more data about the speed, extent and nature of disruption and emergence of new ways of arranging work become available.

12.2 How should the DES funding model incorporate the growing number of short term jobs available in the economy?

- Options for incorporating the growing number of short term jobs include allowing longer and multiple breaks between employment placements, working cumulatively in multiple jobs, and with a corresponding lengthening of the period needed for a participant to work the required number of hours to achieve an outcome.

12.3 Should the new model replace the job placement fee with a 4-week outcome payment, and how many 4-week outcome payments should be available for each job seeker?

- Replacing the job placement fee with a 4-week outcome payment is likely to improve matching of participants to employers and the sustainability of outcomes. There is a risk that more disadvantaged participants facing major barriers, who at a point in time may only be able to achieve their employment benchmark within two weeks as under the current arrangements, will not be put forward for jobs lasting four weeks or longer.
- A 4-week outcome is a milestone payment for initial matching and trialling of a participant in a job. In DES 2018, providers should have access to up to six 4-week outcome payments per participant annually, where several attempts are needed to find the right sustainable job for the participant, while at the same time enabling the participant to gain valuable experience. 4 week outcomes should be treated in a flexible way that allows four weeks work to be flexibly bundled together from multiple work placements, in recognition of the increasing incidence of short term work.

12.4 How should job seekers be supported in the period between the 26-week outcome and the 52-week outcome?

- DSS or DHS should not prescribe how job seekers should be supported. This should be left up to providers to determine in conjunction with participants and employers, consistent with Job Plans and in accordance with individual needs and providers' own service delivery models and approaches. Flexibility should be retained in the system for Ongoing Support to be provided to those who need it as required, subject to an Ongoing Support Assessment.

12.5 What level of payment should be attached to the 52-week outcome while keeping total DES expenditure within the current funding envelope?

- 52 week outcome payments should reflect the number of hours worked at 52 weeks in relation to the participant's assessed benchmark hours.
- The quantum of the 52 week outcome payment should be sufficient to encourage providers to take the steps necessary and within their control to provide services which result in 52 week outcomes. In the unfortunate event that such fees were to be funded from within the existing funding envelope, the funds involved will be drawn from either service delivery or other outcome payments and should therefore be sufficient on one hand and relatively modest on the other.
- An investment approach would be more desirable and would involve more investment in the system to achieve more and better outcomes, fewer people reliant on income support and resulting savings to the overall budget. It is recognised, however, that this might not be immediately possible in an environment of significant fiscal restraint but something which could be considered in the future.

13: SERVICE FEES

13.1 How should service fees work in the context of a funding model with risk-adjusted outcome fees?

- The balance between service fees and outcome fees needs to provide incentives for achievement of more employment outcomes while enabling providers to provide sufficient ongoing services to all participants.
- Participants with a significant disability and multiple barriers to employment require more intensive and higher cost services. The level of service fees provided for their support should be relative to the intensity of the services they need, any geographic disadvantages and the higher costs associated with them.
- Accordingly, service fees should be also risk-adjusted. If this does not occur, there are risks that the most disadvantaged with not receive an investment from their provider in the assistance they need to get a job.

14: PRO-RATA SERVICE AND OUTCOME FEES

14.1 How should pro-rata service and outcome fees be calculated?

- The proposal that service fees follow the participant and are paid pro-rata based on the number of days the participant spends at each provider is supported.
- Providers who successfully prepare and place participants in employment that lead to outcomes should be rewarded. If a participant changes provider during the outcome period, the outcome fee should be split between the providers. One option is to pro-rata payments based on the length of the periods of service with the providers.

14.2 How should pro-rata fees apply in the event that a provider ceases to be a member of the Panel?

- If a provider ceases to be a member of the Panel, outstanding fees could be pro-rated on the basis of the relative period of service between multiple providers.

15: DETERMINING ELIGIBILITY AND EMPLOYMENT OUTCOMES FOR ESLs

15.1 Who should be able to qualify under revised assessment criteria for ESL?

- Broadening the assessment criteria for ESL will support better transitions for more people with disability from education to employment. There are concerns is that the current criteria are too restricted, where participants usually have to be in their last year of school, usually Year 12, and receive the DSP or have a significant disability that is specifically recognised and funded by the relevant state education system.
- Eligibility for DES should be widened to other people with less significant disability, such as people with learning disabilities or mental illness, who don't attract additional funding and support, but who face significant barriers to employment as a result of the disability. These people would qualify for DES under the current Funding Level 1 if they had undergone an ESAT or JCA.
- The Paper maintains the current policy of not recognising after-school jobs for outcome payments. After-school jobs provide valuable work experience for ESLs and a strong foundation to enable them to compete with their non-disabled peers, to support successful transitions from education to work. Young people with disabilities need additional support to help them access employment opportunities while still at school. After-school jobs should be recognised with at least a partial outcome payment, to reward and incentivise providers to help ESLs obtain valuable work experience while still at school.
- Evidence indicates that the school to work transition point is where most dislocation occurs and any investment which keeps the relevant young people engaged through this transition needs to be encouraged.

15.2 How could the level of disadvantage and work capacity be assessed for secondary school students?

- One option is to refer students that fit under the revised criteria to Centrelink for assessment.

16: IMPROVING THE GATEWAY

16.1 How can gateway arrangements be improved to enable a better connection to employment services for people with disability?

- The gateway is supposed to stream people into the right employment service and at the right funding level, but is not doing this as well as it could as identified in the Paper:
 - The administrative processes surrounding ESAts/JCAs are seen as time consuming, cumbersome and confusing for participants. Many participants have both types of assessments
 - A lack of availability of appointments with DHS assessors to undertake ESAts/JCAs, and when available, are often far into the future.
- Concerns have also been raised about the quality of gateway services, and claims are frequently made that DHS is not investing the resources needed to produce quality assessments. The new gateway arrangements should ensure that there are no unnecessary reassessments for some people with permanent disabilities who exit and re-enter DES, which are usually unchanged from the previous assessment.
- The gateway arrangements can be improved by:
 - better communication lines between providers and assessors;
 - increasing the availability of face-to-face appointments;
 - increasing the time allocated by assessors to conducting assessments, so they can do them more thoroughly and effectively determine a person's funding level, benchmark and to provide some initial insights and ideas about possible interventions which providers might consider adopting. This will not obviate the need for providers to undertake their own and iterative assessments of participant needs and appropriate services to meet needs, address barriers and secure outcomes;
 - Providing more transparency around how decisions about funding level and benchmark are determined; and
 - Reduce the need for unnecessary reassessments for people with permanent disabilities who exit and re-enter DES.

17: ASSESSMENTS REVIEW

17.1 What other aspects of ESAts/JCAs should be examined in the review?

- The concerns about assessments identified in the Paper are shared by our members:
 - Inconsistencies with identification of work capacities and recording of barriers and interventions;
 - Inappropriate referrals to programs and wrong funding levels assigned;
 - Questions about the reliability and validity of ESAts, leading to people being underemployed, working beyond their capacity and not getting the support they need;
 - Generalist assessors may not be qualified to assess the impact of a particular disability;
 - Assessors lack knowledge of local labour markets;
 - Requirement for medical evidence can prevent rapid connection with provider;

- Assessments don't include enough detail for providers to tailor effective strategies and supports. This should be left to providers as part of their service delivery;
- Assessed work capacity and benchmark hours are heavily dependent on context and therefore need to be determined and perhaps adjusted in the context of the nature of participants' engagement in and with the world of work.
- Assessments need to be more holistic and more focussed on capabilities and strengths, rather than restrictions resulting from disability. They should also take account of an individual's attitudes and motivations to find work, irrespective of their disability and assessed work capacity. An ongoing issue is the fear of losing access to the DSP and being forced on to the lower Newstart Allowance. This creates a strong disincentive to participate in employment and perhaps to overstatement of barriers and understatement of real work capacity.

17.2 Option a. is preferred - that there should be greater separation of ESATs and provider's own assessments, with ESATs focused on eligibility, work capacity an appropriate referral within DES and not extending to suggested interventions.

- Providers will still have to do their own assessments with an iterative and ongoing approach.
- The DSS review of current assessment processes is a very positive and appropriate initiative.

17.3 How should the revised assessment process fit with other options for DES reforms outlined in this Discussion Paper?

- DES eligibility should be opened up to people with less than an assessed 8-hour work benchmark if they want to participate.

18: ONGOING SUPPORT

- The proposal to introduce a fee-for-service model for all levels of Ongoing Support is not supported as it will increase the already heavy administrative burden for providers. Requiring records all instances of Ongoing Support to be entered in the Department's IT system in order to claim a payment would significantly increase administration.
- The proposal to have DES providers review - together with the employer - a participant's skills every 12 months while they are in OS to see if they need up-skilling, to help people maintain competitiveness and build their careers by getting better, high paid jobs, is supported.
- The proposal to have an Ongoing Support Assessment at 26 weeks instead of at 52 weeks is supported. It would ensure that all participants entering OS would have an independent assessment, resulting in better targeting and tailoring of OS. However, this will reduce the flexibility for providers to deliver OS as they see fit. The impact of the changed arrangements should be monitored, including any changes in the achievement of 52 week outcomes for participants exited as independent workers.
- The Paper questions continuing OS if a person is working at 1-7 hours when their capacity is 23 hours, and proposes to introduce a minimum benchmark of 8 hours for OS eligibility. This means a person working 1-7 hours could recommence in DES to help them get a job at their

benchmark hours. This proposal is supported in principle, but there should be flexibility in the requirement to recommence in DES and have a new ESA, and which takes account of the growing precariousness of employment arrangements that can result in fluctuations in hours worked from week to week.

- Current OS rules do not provide enough flexibility for providers to deliver job search and access to training to help participants change jobs, or add a further job to increase their hours of work and/or to advance their careers. The OS rules and OSAs are too focussed on whether the OS provided complies with defined rules, rather than the needs of the participant. If providers support the participant in job search support that does not meet narrowly defined rules, this can lead to the participant being exited from OS at their next OSA, even though they still need OS. This means career development support beyond the current employment is discouraged. Instead it should be allowed and funded.
- People should be able to register with a DES provider if they are currently employed at their benchmark, but who would like assistance to find another job, or to transition to a composite set of jobs that meet or exceed benchmark requirements. This would address the perverse incentive to leave an existing job to be able to enter DES for support to change jobs. DES needs to better support participants to reach their career goals while in ongoing support, without requiring them to become unemployed and re-register, be reassessed and start again from scratch.

18.1 Should the fee-for-service funding model specify minimum contacts and hours of support?

- A fee-for-service funding model should continue to only be applied to Flexible Ongoing Support. It should not specify minimum contacts or minimum hours of support, to help ensure that providers only deliver flexible services as required. Payments should not be tied to 4-hour blocks of services. Instead, payments should be calculated and paid on an hourly basis according to the instances of support provided.

18.2 What minimum servicing requirements should there be for each level of support?

- Minimum servicing levels for Moderate and High Ongoing Support should be maintained at the current levels of six and 12 contacts per quarter respectively.
- For Flexible Ongoing Support, the chargeable period of time should be reduced from four hours to one a minimum of one hour.

18.3 How should payments be determined for each level of support?

- The payment process should remain unchanged for Moderate and High Ongoing Support.
- For Flexible Ongoing Support, payments should be calculated on a fee-for-service basis.

19: JOB-IN-JEOPARDY

19.1 How can we better define when someone's employment is considered to be at risk due to their disability?

- It is difficult to contemplate any single or universally applicable definition of situations which result in employment being at risk because of disability other than relying on reporting from either the employer or the employee concerned that there is a risk and that it relates to disability. Providers might also have a role in this process in cases where they have contact or a relationship with either the employer or employee concerned, subject to privacy requirements.
- Current arrangements don't encourage identification by employers that someone's employment is at risk because of their disability, because of perceptions that it may involve discrimination. Improvements in this area could be achieved by improving awareness of disability and its impacts upon employment, and of support services available such as JIJ. Improving awareness will create more opportunities for conversations about how people with disability can be better supported in the workplace.

19.2 How can we increase employer awareness of JIJ?

- The low take up rate of Job in Jeopardy services suggests more needs to be done to support awareness and confidence to use this type of service, including through a national awareness campaign, JobAccess, and the NDRC.
- This year's Willing to Work National Inquiry recommended that the Government deliver a sustained national education and communication campaign to promote employment of people with disability, including promotion of the supports and schemes that are available:

Recommendation 28: That the Australian Government develop and deliver sustained, focused national community education and information campaigns that where appropriate are customised for specific geographic regions, to:

- *increase awareness about, and the benefits of, employing people with disability and a diverse workforce*
- *dispel myths and stereotypes and reduce stigma to change the way we value the contributions of people with disability*
- *promote the various government supports and schemes that are available*
- *raise awareness of the ways in which recruitment and retention practices may be discriminatory*
- *educate people on their rights and responsibilities*
- *promote positive stories, images and experiences, acknowledge positive employers.*

These messages should be embedded consistently into all government related announcements regarding employment, training, business support schemes and economic stimulus measures. A key feature of these campaigns should be that they are run in collaboration with business and employers.

- A national campaign could be used to increase employer awareness and demand for JIJ, including case studies of how JIJ services have achieved success. The campaign should also

target people with disability in employment, to advise and encourage them to access the services available through JIJ, without a requirement to disclose their disability to their employer.

- The Take up of JIJ could also be increased by implementing the Inquiry’s recommendation for a national workforce strategy, which includes employer targets, actions, performance indicators and timeframes, with progress reported annually and publicly.

19.3 Does the current fee structure reflect the services being provided and outcomes being achieved?

- If people in JIJ were required to have an OSA shortly after commencing in DES, this would better identify the level of assistance they require to maintain employment. The JIJ fee structure could be adjusted to reflect the levels of support required, as occurs through Ongoing Support. There is a risk however, that a requirement for an OSA could become a new barrier to participation in JIJ, particularly if the worker has not disclosed their disability to their employer, and the risk would need to be managed.

19.4 What is a more appropriate name for Job-in-Jeopardy?

- The name “Job-in-Jeopardy” is inappropriate and should be changed. Alternative suggestions are “Employment Support” or “Workplace Assistance” or “In-work Assistance” .

19.5 If a JIJ participant chooses not to disclose their disability to an employer, how should providers assist them in the workforce?

- A participant’s choice to not disclose their disability to their employer is a matter of privacy and must be respected. Providers should continue to be recognised for providing support in ways that respect a participant’s choice not to disclose.

19.6 Should the JIJ service be integrated with Ongoing Support?

- The proposal to merge the programs is supported, with OS replacing JIJ services for people already employed, subject to an OSA.
- Integrating JIJ would help to better identify and fund the level of assistance required to help someone maintain their employment, in accordance with assessed need.

20: TRANSITION ISSUES

20.1 How can we ensure that DES providers continue to provide quality services to participants towards the end of the current contracts?

- DSS should consider options for early exit from current DES contracts for non-continuing providers and transfer of participants where options for this are available. This might be necessary, for example, in cases where non-continuing providers are unable to retain sufficient staff to provide services.

- DSS should continue monitor delivery of quality services and intervene to manage providers in accordance with the terms of the Deed.
- There are a myriad of transition issues which will be dependent on the final shape and details of the reform process and which will require further examination and contemplation once decisions on the directions, nature and shape of reform are finalised. Some aspects of the reforms such as the review of assessment and gateway processes might not be fully completed at the time of commencement of reformed DES in 2018.
- Providers seeking and gaining Panel membership will require a reasonable degree of certainty about key and important aspects of reform at the commencement of the reformed DES. Providers and the Department will also need to accommodate and respond to iterative adjustments to the system which occur after commencement date - without significant or unexpected and unmanageable adjustments being made after the system commences. This will require careful and considered design and implementation of the transition process and the provision of necessary information, support and perhaps capacity building for providers as well as for participants and adequate provision of resources to meet and respond to the advocacy needs of those who require that support.