

Opportunity through employment

NESA Submission to the Department of Social Services on the New Disability Employment Services from 2018: Discussion Paper



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About NESAs

NESA is dedicated to creating opportunity for all through employment. Our mission is to lead a sustainable, effective and diverse employment and related services industry.

NESA is the peak body for all of Australia's world-renowned contracted employment services which provide labour market assistance to improve opportunities and outcomes for disadvantaged job seekers and employers. Our members include not-for-profit and private organisations that have extensive coverage of jobactive, Disability Employment Services (DES), the Community Development Programme (CDP), and other complementary programmes such as Transition to Work (TTW).

Some words about the context of this submission

Caveat

This submission is primarily about Disability Employment Services (DES). It is important to recognise upfront that the population eligible for DES is a relatively small subset¹ of people with disability impacted by barriers to employment. Therefore our proposals for DES do not offer a panacea for all disability employment challenges. However, to place DES within the broader context, this preliminary section presents four high-level principles and related actions that NESAs considers important for improving employment for all people with disability.

Broader context of disability employment

Access to employment for people with disability is fundamental to the creation of a successful and inclusive society. It is a priority for implementation of the National Disability Strategy and of the United Nations convention on the Rights of Persons with Disability. NESAs strongly supports the vision and overarching strategies outlined in these ground-breaking policy developments.

1. Expanding employment opportunities for all people with disability is imperative

NESAs has always emphasised the importance and the value of employment for everyone. Often what we do for a living becomes a core part of how we define who we are. Employment not only gives people some economic independence, it also provides a connection to community and a sense of self-worth. Employment is significant marker of success for rehabilitation.

There is evidence for the social and economic benefits of employment of people with disability including: contributions to society; financial independence; better standards of living; improved physical and mental wellbeing and confidence; expanded social networks as well as opportunities to develop a career and expand skills and knowledge. At a population level there are also large and readily achievable benefits from raising employment and labour market participation rates of people with disability from the current levels as articulated in the National Disability Strategy.

2. Barriers to employment for people with disability can be addressed

Some OECD countries have achieved better employment outcomes for people with disability and there are numerous stories of individuals who beat the complex barriers to employment.

¹ About 180,000 people are eligible for DES at any point in time which is 8% of the estimated 2.2 million working age Australians with disability, or about 17% of the over 1.034 million in that cohort who are not in work (ABS Disability and Labour Force Participation, 2012).

These achievements are evidence that we can do better. Governments and civil society need to:

- **raise the expectations and visibility of employment for people with disability**
Low expectations of the employment potential for people with disability are unfounded but widespread and are compounded by lack of visibility of disability in the workplace. To combat this vicious cycle governments should promote and invest in:
 - early transition support, planning and work experience so that people with disability have the same opportunities to start work when they reach working age as their peers do
 - raising the disability confidence and knowledge of employers, recruiters, educators, families and people with disability through coordinators, employment networks, targeted campaigns, practical assistance and targets.
- **expand employment options and employment demand for people with disability**
The rapidly changing world of work and technology creates opportunities to innovate in job design or workplace arrangements that broaden job options for people with disability. To enhance these opportunities, governments should promote and invest in:
 - micro-business development
 - 'job-carving' and related employer engagement, coordination and 'reverse marketing'
 - individualised and specialised career-planning that aligns with industry growth areas
 - social procurement
 - social enterprise and social firm business models
 - innovation, research and evaluation of employment and employment support options.
- **reduce disincentives in the welfare system and ensure sufficient income security**
Not all work options will generate sufficient income to live on at all times and for many people the way their work dovetails with the welfare system is very important. Currently only eight percent of people on the disability support pension receive any income from paid employment. This is a damning statistic indicating the current interface is not working well.

3. Responsibility for improving employment outcomes for people with disability is broad

Some activity outlined above can be undertaken by employment service providers including those under the jobactive, DES, Transition to Work and Community Development Programmes all of which include people with disability amongst their participants. Some activity falls within the remit of the National Disability Insurance Scheme, including the Information, Linkages and Capacity Building Framework. Some activity may be promoted by state and territory governments including the education portfolios and there are many other organisations with a role.

4. People with disability must have a voice in the design of employment support options

People with disability have the same right to choice and control in their lives as anyone else and one important strategy for achieving this is through ensuring the views of participants are heard and understood in the development of any support options or policy that affects them. This co-design approach needs to happen at a strategic level as well as at a one to one service level.

Similarly when designing a specific sub category of service delivery, such as the future of DES, it is also important to include the perspective of the relevant service providers. NESAs contribution in the remainder of this submission aims to assist in this regard.

Summary of the NESAs submission on the new DES

New DES from 2018 will play an important role as a component of the Australian Government's overall strategy to improve employment outcomes for people with disability. NESAs and our members are committed to a successful DES reform by ensuring policy decisions are well informed about how effective employment services work in practice. Once the rubber hits the road in 2018 it will be the quality of frontline employment service engagement with DES participants and employers, and of the coaching, information and support that services offer that can improve outcomes. Knowing what this quality practice and engagement should look like is critical to assessment of whether reform proposals will work.

DES are effective when skilled practitioners with local labour market knowledge and networks are able to partner with participants to develop and implement tailored and holistic career plans. The procurement model offers strong incentives, structures and stability that support this activity but is only one piece of the puzzle and it is a mistake to make this the primary focus of reform. A sophisticated procurement model that incorporates market mechanisms and an outcome focus has already been developed in the DES context. While some improvements are indicated there is no evidence that it is broken. NESAs therefore continues to advocate that the DES reform should build on the core strengths of this framework, **in an evidenced-informed manner**. An incremental evolution of practice responding to an evolving world of work is what is called for – not a revolution responding to parallel reform processes in allied sectors with different drivers.

NESAs member experience and comment suggests that the focus of DES reform needs to shift to the following areas to complement strengths in the current framework, to give participants the support and tools they need to take charge of their employment outcomes and to create a more vibrant disability-inclusive labour market for employers:

- **Widening the gateway into DES** to all people with disability who need support to gain, maintain or change employment. This includes working-age people in school and people who want to work but are assessed as lacking capacity. This alongside other improvements to the gateway, eligibility and assessment processes is the main way in which DES will make a difference to the disappointing participation statistics noted in the case for change. It is these processes that must drive resource allocation to where it is most needed.
- **Investment in sector and workforce capability and an industry-led co-regulation** framework will most efficiently focus quality assurance activity on building effective practice not bureaucracy. We need to recognise the skills and knowledge required to deliver tailored and co-designed support that enable participants to make choices and take more control of their career pathways in a context that includes mutual obligations and employer demands
- **Investment in employer / employment demand.** Disability-confident employers and nuanced knowledge of emerging employment options will be critical to improving employment participation and outcomes, and with that, opportunity for DES participants.

This submission provides a detailed response to the discussion paper questions and outlines a path forward that acknowledges the challenge of achieving a successful transition and of satisfying the positive aspirations for reform from many stakeholders. We propose an incremental transition where there are opportunities to test ideas and build evidence about practice that works and also about the real costs, risks and benefits of various proposals. It is a continuous improvement approach to reform with co-design at the heart.

Overview

Improved employment participation remains a priority for people with disability

The ongoing commitment to improve employment outcomes for people with disability must be a priority for the Australian Government. It is critical for achieving the objectives of the National Disability Strategy, essential to the success of the National Disability Insurance Scheme and imperative to the social and economic wellbeing of both people with disability and the broader Australian community.

It is important to understand the specific role DES plays within the Government's overall strategy to improve employment outcomes and also how it fits within a broader context of reform that impacts on services and support for people with disability.

NESA supports the objectives of the National Disability Strategy to build a fully inclusive society where, amongst other things, people with disability have equal access to all government services. This means that alongside individualised support provided by the National Disability Insurance Scheme (NDIS), the health, justice, housing, education, transport and **employment** service systems must ensure they are appropriate and accessible to people with disability. The DES programme is one way in which the Government achieves this objective for a specific subset of the disability population.

Everyday control and choice is the key to ensuring people with disability enjoy equal opportunities to participate fully in social and economic life

NESA also strongly supports the objectives of the NDIS which is reorienting the funding and provision of disability support so that participants exercise choice and control in the pursuit of their goals and in the planning and delivery of their supports. NDIS individualised funding inherently lends itself to a competitive market and fee-for-service approach for delivering the support people need to carry out their daily activities. Once fully implemented it will transform the status quo so that people with disability and their families exercise the level of choice and control in their lives that is available to other citizens. This is an overdue reform which is consistent with the United Nations Convention on the Rights of Persons with Disabilities.

It is important to note, however, that employment outcomes are not achieved through consumer choice alone and it is difficult to hold programmes that use fee-for-services based procurement accountable for outcomes. In short, individualised funding mechanisms cannot be sensibly applied to all employment support, in all circumstances for all people with disability. In the DES context the important goal of increasing choice and control of people with disability should primarily be focused on increasing opportunity and inclusion through employment.

DES reform that harnesses the wisdom of experience and embraces the vision of equal opportunity - evolution not revolution

NESA's input to the co-design process for developing a new DES for 2018 over the last 2 years has consistently been informed by the extensive practical experience of our members. DES provider contributions, in numerous NESA forums and discussions as well as with the Department, is a testament to their commitment and vision for increasing opportunity for people with disability through employment.

Overtime, ideas have evolved and providers, alongside other stakeholders, have embraced principles from parallel reforms including choice and control, individualised funding and supports across the life course for people with disability. Some ideas and principles have proven to be consistently relevant and have passed the test of time. NESAs has analysed the proposals outlined in the Department's November 2016 DES Discussion Paper according to these principles:

The future DES model should:

- build on what works and be based on evidence
- effectively assesses individual needs and allocate funding accordingly
- provide coordinated case management and a holistic approach to services across the life course
- support individual tailoring and service co-design while remaining focussed on outcomes
- focus on outcomes and in some cases outputs (rather than inputs) and free providers to utilise their skills and expertise
- fund services for both job seekers and employers
- be available to all people with disability who need support to gain, maintain or change employment.

Outline of this submission

Based on our analysis and the considerable experience of our members this submission makes four areas of recommendation at a strategic level:

1. reforms in areas that will make the biggest difference to outcomes and require more attention
2. proposals in the discussion paper which NESAs believes can be implemented relatively simply
3. proposals towards which NESAs urges a cautious approach and which need to be tested and evaluated prior to full implementation
4. a timetable for an incremental approach to the transition

NESAs has also gathered the views of members on the specific questions posed in the discussion paper. These are presented in a table at the end of the submission.

Response to the proposals

1. NESAs recommends a focus on reform that makes the biggest difference to outcomes

It is NESAs contention that because this reform timetable is based on a contract timetable the focus has predominantly gone to procurement at the expense of practice innovation, and of bigger issues that are more likely to make a significant difference to current performance.

NESA has identified three of these 'bigger issues' that warrant more attention:

1.1 Improving the gateway, eligibility and assessment processes

Of particular concern is the idea implicit in the current assessment process that it is useful to assess *capacity to work* on a general basis, without a specific type of work in mind. This idea is fundamentally flawed and results in many people with disability who need support to gain, maintain or change employment missing out. A more nuanced approach to 'capacity to work' which embraces the full suite of work types and options would allow many more people to access DES and benefit from work.

Changes to the gateway should expand access to DES and address gaps in the wider strategic and service system context. There should be volunteer registration from school students who want support to access after-school or holiday work. There should be access for the cohort currently assessed as having below 8 hours capacity, where they are not eligible for the National Disability Insurance Scheme (NDIS) and when they want to work. There should also be choice for people with disability who are currently referred to jobactive but would be better served by DES. We are informed that this includes many Indigenous people with disability as the assessment tool often determines that the disability is less of a barrier to work than their Indigenous status.

Another core and long-standing issue is perverse incentives created by the interface with the income support system. For example, there is the group of clients assessed as having *capacity to work* and sent to DES for an 18 month trial. If they do not get a job then their assessed capacity is reduced and they can become eligible for the pension. There is research noting the significant psychological factors that can detrimentally influence work-readiness associated with having to prove you can't work to get access to income support.

NESA is pleased to see improved gateway and assessment processes on the proposed work programme, however we note that the timing for implementation of related changes will be critical to various other proposals including risk-based outcome payments.

1.2 Investment in sector and workforce capability and an industry-led co-regulation framework

There is a lack of recognition of the practitioner skills that achieve outcomes through a deep understanding of disability-related barriers to employment, labour markets and activation techniques. There is also a need for continuous learning as labour markets evolve and new engagement techniques become available through technology.

NESA proposes a shift from assurance activities focused on organisational competence to a professional and ethical workforce framework led by the sector. Such a shift would acknowledge the importance of decisions and activity at the frontline.

NESA believes this will be the best way to increase the choice and control of participants. Good practice engages, motivates and empowers participants to take charge and step onto a pathway to employment. As outlined in some detail later in this submission this goal will not be so easily achieved through individualised funding. The outcome payment system provides sufficient drivers for organisational competence and should remove the need for prescription. The appropriate place to drive quality is through the workforce.

1.3 Investment in employer / employment demand

There are a range of measures that should complement the efforts of DES providers. These include: promoting DES and related websites such as jobaccess; ambassador programmes; social procurement; encouraging the development of social enterprises; job carving and micro business development through a flexible innovation fund; promotion of targets; and more. Investment in these job creation and employer confidence measures needs to start as soon as possible. An evaluation process should go alongside these.

2. NESAs supports proposals aligned with the core strengths of DES

NESA supports the proposals outlined in the discussion paper which clearly reinforce the core strength of DES, which is the capacity for practitioners to tailor services in response to local labour markets and individual circumstances. By reducing complexity, over-prescription and high administration burdens the following proposals make more flexible and effective practice possible. For similar reasons NESAs does not support proposals that will reduce the flexible use of service fees. DES providers should be able to make tailored investment decisions that meet both employer and participant needs. NESAs supports proposals:

- 2.1 **To foster practice which enhances job plans and encourages participants to engage and have more choice and control over the content** of their job plans. Many providers note that mutual obligation compliance can be a barrier to good engagement in these plans. However, skilled practitioners can make all the difference. NESAs would like to see the various practice options explored, enhanced and promoted alongside a recognition framework of the relevant skills of employment consultants.
- 2.2 **To offer more opportunities and targeting of support for both employers and employees with disability to maintain employment.** It will also be important to recognise the specialist skills and knowledge required to achieve these objectives.
- 2.3 **To offer providers more flexibility to determine the best mode of service delivery.**
- 2.4 **To simplify the contracting model with a single DES contract.**
- 2.5 **To support transitions from school including through working with students.**
- 2.6 **To enhance the DES incentive structure with risk-adjusted and longer-term outcome payments (with caveats).** In principle, NESAs supports these proposals as we believe they should further allow providers to invest in the most effective way to achieve outcomes so long as there is sufficient flexibility and less prescription. However, they will only work if the overall structure stays intact and providers are viable which is discussed in the next section. We also note that achieving 'less prescription' requires a genuine commitment to change the quality framework. This has not occurred to a sufficient degree in jobactive which had similar ambitions. NESAs strongly believes that this will require a completely new approach focused on worker skill and competency instead of compliance reporting.

3. NESAs urges cautious evaluative application of proposals that reduce place-based stability

Employment services including DES were trail blazers in introducing contestability into human services and designing a system that draws on competitive market forces to drive quality and efficiency. However, unlike the individualised funding and consumer choice model promoted by the Harper Competition Policy Review and the Productivity Commission report on Disability Support, employment services have needed to take a different tack to address the complexity of having two customers: employers and job seekers and essentially a brokerage service model.

A managed competitive market, plus market share, combined with outcome payments allows sufficient stability in local areas to build and invest in local knowledge and labour market networks while also encouraging responsive innovative support to achieve outcomes. This model addresses the flaws noted by Harper and the Commission as present within a purely grant-based procurement model, albeit in a different way. This design also addresses inherent challenges related to the close links between DES and the benefit and pension payment system, including mutual obligations, which is hard to do in a more consumer-driven market.

NESA is concerned that some new proposals work against this structure, and as such fail to respond to fundamental drivers in the labour market, welfare and disability support interface.

While the proposals NESAs supports above have arisen from the experience of providers and participants and from an analysis of how the system has worked to date, proposals aimed at creating a more consumer-driven competitive market are not so robustly supported and originate in different types of service frameworks.

DES comprises a finite, relatively small, essential (non-voluntary) local-area managed market, requiring skilled practitioners supported by complex infrastructure and investment in local networks. The funder will find a supply-chain metaphor more useful than the fruit and vegetable market metaphor. It is in the interests of the funder to look after suppliers and ensure each component is viable, applying competitive forces in a managed way instead of allowing market failure to force adjustments. The sophisticated contracting approach that has developed using star-ratings and place-based market share was ahead of the trend in applying competitive forces to human services within an outcomes-based payment framework.

Weakening the stability of this model, as several proposals aim to do, so that participant choice can drive market contraction or growth, raises the following serious concerns and questions:

- How can the referral process work fairly without market share and when job seekers are not sufficiently informed or motivated to make a choice?
- How will increased scope for jobseekers to change provider impact on mutual obligations and related provider responsibilities, and how will it work with the many participants that benefit from a 'nudge' as an activation and motivation strategy? Indeed evidence indicates that there is a diverse mix of motivation drivers across the population and it is not clear why DES participants as a group should be different from the rest of the population NESAs would argue a tailored approach is required and many people with disability benefit from support to try new things just like the broader population.
- How will less service fees and more outcome payments work in practice when it occurs alongside increased ability for job seekers to transfer between providers? There are risks that

it will de-incentivise early investment and intervention strategies. The paper suggests outcomes should be at the centre of DES and also that participants need more control. This makes sense for the broader disability support system where participant-control is a desired outcome in itself for many supports such as equipment or personal care, however the same cannot be said for all aspects of employment services for all participants.

As noted earlier NESAs does not believe that these challenges should prevent DES from increasing choice and control for DES clients in a managed market framework. NESAs believes that the principles of choice and control can be improved in future by:

- 3.1 Stripping out the administrative burden and prescription. This allows providers to utilise their expertise to co-design services and outcomes with job seekers based on individual needs and aspirations, and to design services to meet employer needs and local labour market realities. Many of the criticisms of service performance outlined in the earlier case for change presented by the Department could be rectified by removing programme prescription.
- 3.2 Broadening eligibility to ensure that no one is deemed to have “no capacity to benefit” from employment supports and that services can be delivered across the life course.
- 3.3 Redesigning assessment and funding allocations to be based on entitlements and not deficits. This can include the development of a career plan, however this plan should be co-designed utilising service provider input and expertise.
- 3.4 Investing in community and individual capability and capacity development to empower job seeker and employer choice. This would include better promotion of available services.
- 3.5 Explicitly funding both job seeker and employer services and supports, such as an extended National Disability Recruitment Coordinator type service for small to medium employers.
- 3.6 Investing in ongoing evaluation to build the evidence base for future changes to the model. It is important that trialing, testing and evaluating be a core part of building a future framework.

4. An incremental transition to gain information on practice and enable continuous improvement

Expanded market choice creates risks of market failure in some areas. It is unclear how this can be managed without ‘market share’ bottom lines to ensure viable minimum caseloads – better information is required to get this right. Similarly, evidence is required to ensure adjustments to funding models enhance service delivery. NESAs and our members help to fill in some gaps in information in the next section. However, we propose a transition and continuous improvement timetable that enables evidence to be gathered on effective practice to inform further change.

An incremental transition approach (such as outlined in Figure 1) can also help ensure the sector does not lose significant investment in infrastructure, knowledge, skills, employer and community networks and social capital. Unfortunately this is difficult to measure as the consultation processes and information-gathering to date does not appear to have created a baseline picture of what the sector currently consists of, nor is there a documented understanding of the actual ‘practice’ that works and the related workforce, skills and knowledge required.

Figure 1 below is a draft with complex details requiring attention. The proposal is that an iterative approach be taken to implementation with key milestones set out in advance so providers know what to expect and can plan appropriately. A formal and consultative evaluation needs to be built into the timeline to allow an evidence-informed approach to developments which draws

connections between practice and outcomes, not just procurement approaches and outcomes. It should also monitor market impacts and related stability and choice options for participants. NESAs recommends ongoing and formal engagement of the industry and its stakeholders throughout the continuous improvement process of building capacity towards an industry-led co-regulation model.

Figure One: Incremental transition for the first four years of a 5-6 year reform



Addressing the discussion paper questions

The following content is based on NESAs member responses to the discussion paper questions. Some responses offer operational and practice detail to inform the detailed design of DES. The content also provides additional evidence and support for the broader response to the discussion paper proposals outlined above.

1: More Choice for Participants

NESA members express strong support for participants having more choice and control over their lives, as facilitated by the design of the NDIS. However, there are concerns about adopting some NDIS design elements in the DES context.

Providers have consistently identified pragmatic barriers in policy proposals that allow participants to more easily change providers at will. They note major challenges related to mutual obligations, place-based practice, and market viability. There is also puzzlement about the goal of such an approach given a lack of evident benefits. The background in the discussion paper does not clarify why more choice of provider is important in the employment service context where in contrast to personal support services, there are two customers (employers and participants) and competitive service drivers are already applied.

There are ways in which providers believe more meaningful choice and control can and should be enjoyed by DES participants, over their support to access work and over their lives. These are primarily about ensuring effective practice and are noted later in this table in relation to the job plan questions.

<p>1. What, if any, restrictions should there be (for example, region or distance) on participants choosing to attend a provider?</p>	<p>A strength of the DES model is the place-based approach to contracting which enables the development of the strong local employer and community networks essential for effective practice. To support this approach there need to be restrictions that offer providers sufficient stability to invest in and develop good knowledge of relevant and local labour markets. NESAs members support the recent rule change that allows some participants to transfer to providers in adjacent areas. We recommend that this development be monitored and evaluated prior to any further extensions.</p>
<p>2. How often should participants be allowed to voluntarily transfer or switch providers?</p>	<p>The most apparent challenge with the introduction of more choice into DES is that most DES clients are not voluntary and they have ‘mutual obligations.’ It will be important to place restrictions on how often and under what circumstances these participants can transfer or it will be difficult for the providers to manage these obligations. There also needs to be a minimum time spent with a provider to allow their investment in building a relationship and communicating their strategy to work. Providers are clear that the proposed option of 5 transfers in 2 years would be too many, potentially it could involve six providers and insufficient continuity for good practice.</p> <p>NESA recommends further investigation of effective practice models and critical decision points to determine when appropriate transfer points are. There is no one approach that suits all participants but there could be useful guidance around different phases. For example, providers report that some people benefit from an extra nudge in an initial period. These motivation techniques could fail if the client moves at a critical juncture. There is supporting evidence for this activation practice which could be enhanced through trials as part of a transition phase.</p> <p>It is also important that transfers not be encouraged after a participant has started working and is receiving post-placement support. This would result in complications in the application of outcome fees and performance indicators and</p>

	<p>would likely create some perverse incentives. Indeed, if the proposed increased transfers policy is implemented there will need to be a different approach to the application of service fees and the balance with outcome fees as it will not be possible to determine which investments by which providers got results.</p>
<p>3. What should be the basis of referral by Centrelink for participants who do not choose a provider?</p>	<p>Providers believe that it is likely that most participants, who are generally not seeking employment support by choice, will not be well informed or inclined to choose their provider (again this can and should be tested prior to final design decisions). The process that Centrelink uses will be critical and must be fair as well as effective. These issues underlie the development of the current algorithm-based defaults which not only relate to location, specialisation and performance they must also address market share.</p> <p>NESA recommends that reforms to this referral process be informed by the review of the gateway processes. More choice could be built into the front end of the system with, for example, a more tailored gateway model which provides a capacity development element where required. NESA strongly advocates that this be tested prior to full implementation.</p> <p>It would be a mistake to throw out the current referral method without a strong rationale about what is intended and evidence of the impact. There is an evident risk (based on previous experience) that if there are not clear parameters determining Centrelink referrals, the focus of provider-marketing would shift to Centrelink workers not participants and this will not serve any useful purpose.</p>
<p>2: Provider/Participant Contacts</p>	
<p>1. Should face-to-face requirements remain as part of the DES service delivery?</p>	<p>Providers have long called for an increase in flexibility and less prescription about how they tailor their supports to participant need. The measurement of outcomes plus the weighting of payments towards outcomes is sufficient to keep providers focussed on making the best decisions about how they offer their support. In fact over-prescription can work against the benefits of an outcome-focussed payment system. Furthermore, flexibility allows providers to better accommodate the choices and preferences of participants.</p>
<p>2. How often should participants and providers be required to meet, either face-to-face or by other means?</p>	<p>It is generally agreed that there is huge scope to make increasing use of technology in many innovative ways. This is essential for both job options for participants as well as effective service practice. To allow this to develop, a culture of innovation, evaluation and flexibility must flourish.</p> <p>It is accepted that there should be at least one face-to-face contact early in the on-boarding of a participant. With good use of mobile technology this could occur through the provider visiting participants as well as more traditional office approaches.</p>

3: Job Plans

<p>1. Should Job Plans have minimum requirements beyond what is necessary for mutual obligation? Or should this be determined between each participant and their provider?</p>	<p>As noted above flexibility and low prescriptive requirements are important. NESAs believes that in addition there is a need for investment in developing, understanding and promoting good practice around job plans. Providers have indicated that skilful and tailored practice with job plans is a good place to enable participants to enjoy more choice and control over their lives.</p> <p>The goal is that participants own their job plan and take it with them as a core component of their career pathway, helping to building confidence, hope and aspirations. To enable this to happen, skilful and varied practice by frontline practitioners can be necessary to gain participants' trust and offer helpful insights about labour markets. This could involve highly tailored interventions, for example, participants from communities with low expectations and/or different cultural views and experience of work options for some cohorts may need a pastoral and educative function that reaches out into the wider group surrounding them, in combination with a gentle nudge to try out less familiar territory.</p>
<p>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?</p>	<p>Another example offered by providers of the need for skilled practice is working with participants who have acquired brain injuries and lack insight into their capacity or potential need to change their career path. This can require specialised techniques to redirect destructive thinking patterns, for example. It often also requires in-depth engagement and mentoring of potential employers to explain the challenge and benefits of overcoming barriers to employment for a specific individual.</p>
<p>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?</p>	<p>NESAs believes the skills and knowledge required to provide effective DES practice need to be recognised and continuously developed. New technology, changing labour markets and improved clinical knowledge makes continuous professional development essential. Investment in evaluating practice (not just procurement models) and investment in professional development should form a corner stone of improved job plans that offer participants more choice and control and achieve better outcomes across DES.</p> <p>Changing providers prematurely during the development of an effective job plan will not improve outcomes or increase choice and control of participants over their lives. The focus for quality-control should instead be at the practice level and on the workforce and led by industry in a co-regulation approach.</p> <p>Organisations already have strong incentives to ensure effective job plans as they want outcomes. The more intangible and qualitative nature of the plan, how much ownership a participant has over it, whether the process has built capacity and confidence and its relevance to real labour market opportunities is a function of practitioner skill. Prescription or audit processes will not add value. More research and practice focussed valuation directly connected to continuous improvement and a quality framework would add value.</p>

4: Better Information for Participants

1. What information should be available to participants, providers and employers?	At a basic level, information about how the system works, including mutual obligations, rights and responsibilities and what support can be available needs to be easy for DES participants to understand and access. This should be user-tested. Current and local labour market information is also important. More detailed and tailored information about specific job options, job search approaches, employability skills and more should be conveyed by service providers as a core function of employment support. It is not easy to create generic information that is accessible to everyone and addresses all relevant barriers, that is why employment services are necessary.
2. Should there be mechanisms to ensure no false or misleading claims are made against DES providers?	A great deal more information external from service providers, plus quality control around information and other support, is required if increased consumer choice of providers is a desired outcome of the reforms. There will need to be investment in consumer protections, navigation, capacity-building and information platforms.
3. Should the DOE facilitate access to information on accessible and user friendly platforms, or should this be purely market led (with providers offering such information on platforms of their own choosing)?	Many consumer-driven markets in the information age involve a plethora of marketing information and choices which can be overwhelming and disempowering for all of us. Assistance with navigation, a place to find trusted basic information and quality control such as consumer affairs are often important market supports to help enable informed choice in these markets. This is more important in the DES context. It will not be sufficient to allow the market to deliver the necessary information as it is not a free market. It is a highly-managed market where consumers are often not participants by choice. Furthermore, the nature of disability means that there is a need for a wide variety of accessible communication mechanisms and platforms for the information to be useful. NESAs recommends that consideration of how this should work needs to be part of the review of gateway processes and of how Centrelink referrals occur.

5: Participant-Controlled Funding

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 evidence around participant-controlled funding in publicly funded employment services is weak. NESAs members are aware of studies related to direct budgets for personal care which may have some useful lessons related to how such a reform should be carefully implemented. There is also evidence that many people with disability participating in individualised funding trials request support from financial advisers to support them to spend their money wisely. However, there are many differences between personal care support and employment support that make comparisons problematic. Some of our members have been involved in the youth mental health individualised funding trial which did not have supportive findings for this approach. It was suggested that it may be worth trying a comparative approach with other cohorts. Providers have commented that control over aspects of
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<p>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?</p>	<p>funding may be appropriate and empowering for some participants but not universally. Further, it will likely be totally inappropriate for some participants. It would be useful to continue to explore this practice innovation with trials.</p> <p>Providers are not at all supportive of an approach that quarantines funding in a 'Job Seeker Account.' It is important for providers to use their discretion to tailor the expenditure of funds appropriately. For example, some providers report using the fund to top up wage subsidy options to get over initial barriers with employers. Providers' experience of the complex rules around the employment fund within jobactive has been disappointing and has sometimes proven to be prohibitive to providing immediate responsive and effective support options. They do not want a repeat performance of these issues in DES.</p> <p>NESA recommends the flexible use of the funds available to support participants through a service fee approach. This is much more likely to encourage appropriately 'person-centred' and outcomes-focussed practice.</p> <p>The rest of the questions in this section are not addressed as NESA and our members do not see individualised funding as a viable or coherent option in the DES framework. A system based on outcome payments to providers cannot sensibly also provide individualised control of the support funds to participants. Further, it is incongruent with mutual obligations.</p>
<p>3. What principles should guide the appropriate expenditure of any individualised funding?</p>	<p>We note that many of these questions (and underlying assumptions) have been explored in the NDIS reform context which has a very different framework they should not be simply replicated in the DES context. Unlike DES, NDIS participants are entirely voluntary and it does not involve an outcome measurement and payment structure attributed to providers. Instead the NDIS has detailed schedules which mainly involve fee for service prices for support. It will also be a much larger market and there is a long-term legislated entitlement to reasonable and necessary ongoing personal and capital supports for participants.</p>
<p>4. What restrictions should apply to the use of the funds by participants?</p>	<p>The rest of the questions in this section are not addressed as NESA and our members do not see individualised funding as a viable or coherent option in the DES framework. A system based on outcome payments to providers cannot sensibly also provide individualised control of the support funds to participants. Further, it is incongruent with mutual obligations.</p>

6: Entering the DES Market

<p>1. How often should the Panel be open to entry by new providers?</p>	<p>It is not clear what the panel arrangements will look like and providers note the critical unresolved questions about how the performance or quality framework will be applied. For example the following questions pose considerable challenges:</p>
<p>2. How often should panellists be reviewed and what criteria should they be reviewed against?</p>	<ul style="list-style-type: none"> • How will providers who do not have DES performance records demonstrate their ability to deliver the service and be approved to sit on a panel? The challenge is to ensure that the entrance test is relatively objective and creates an even playing field.
<p>3. What should the basic criteria be for joining the Panel?</p>	<ul style="list-style-type: none"> • How will the Department manage less desirable providers operating in the market? The star ratings measures do not address this concern. Will there be for example an external regulator? The Harper Competition Policy Review commented that a scenario where the entry level is set too low and there are no market share arrangements will create significant risks, not only of market

<p>4. How much time do providers need before entering into a market to set up their operations?</p>	<p>failure but of poor performance and practice which is particularly worrisome with involuntary and potentially vulnerable participants.</p> <ul style="list-style-type: none"> • How will the Department ensure sufficient and timely market coverage? The question of how much time providers need to enter a market depends on the quality requirements and market share approach. If there is no security of caseload, a more tentative entrance is likely with less up-front investment. <p>These challenges need answers prior to adopting new procurement approaches that may put the current market at risk. NESAs recommends an iterative transition as critical elements of the programme won't be ready at the commencement of the contract. This includes the gateway and quality framework. A step-change process could begin with the appointment of 'accredited' providers based on past practice and piloting of panel operations. Later steps might involve a license to operate within a new co-regulated quality framework where failure to meet minimum standards results in a loss of licence.</p>
<p>5. In order to supply DES in a specific ESA what should the requirements be for a minimum caseload?</p>	<p>Several providers have indicated that between 100-150 participants is a minimum caseload requirement for a service to be viable in a specific site. This is of course relying on a larger infrastructure that supports several sites. This baseline needs to be tested through evaluating contract performance in phase one of the transition.</p> <p>Providers are clear that a minimum caseload (which is a version of market share) needs to be set and the number of providers operating within a region needs to be agreed to ensure stability and viability.</p>
<p>7: A Single DES Contract</p>	
<p>1. Would all providers have the capacity to deliver DES-DMS, DES-ESS and Ongoing Support under the proposed simplified contract arrangements?</p>	<p>There was general agreement that collapsing DMS and ESS into one contract is desirable and would help simplify some arrangements. Assuming there will be scope to specialise in specific participant cohorts, there should be no difficulty in having a mixed array of provider capacity. Some would be niche providers for ongoing support and others may cover all possible scenarios.</p> <p>It was suggested that a possible reason for keeping a two-tiered contract arrangement is to have a different contract model for participants with mutual obligations from others. However, many providers note that the diverse range of practice models that work for different clients are not divided along these lines.</p>
<p>8: Removing Market Share Restrictions</p>	
<p>1. What mechanisms should be adopted to ensure universal coverage in an ESA while maintaining a competitive marketplace?</p>	<p>A primary purpose of market share is to ensure stable viable place-based services are available as required and also that they have an incentive to invest in local labour market knowledge and networks. The panel model described does not preclude some level of market share and minimum caseloads although it may be looser than current arrangements.</p> <p>Similar to the questions about participant choice to transfer between providers there are fundamental barriers to successfully implementing the proposal to remove market share in the DES context. The idea that providers have an obligation to receive participants referred to them, but do not have viability secured is not workable. Without a good understanding of, and protection for</p>
<p>2. How should provider diversity be</p>	<p>secured is not workable. Without a good understanding of, and protection for</p>

maintained to ensure participants have adequate choice of provider?

minimum viable market share arrangements there will be market failure, especially in regional areas.

Current DES operate in a sophisticated framework honed over time to deliver an outcomes focussed system, with both guaranteed market coverage, and the application of competitive market pressures through the star ratings. There is nothing in the discussion paper which indicates why this aspect of current DES services needs reform?

9: ESAs

1. Should there be ESAs, and if so, how many ESAs should there be?

There was general consensus amongst members to continue with ESAs as opposed to regions which is seen as carrying a higher risk of market failure.

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

Members also feel the current ESA number is appropriate.

10: Preventing Market Failure

The best way to prevent market failure and apply appropriate market stewardship in the DES context is to maintain some level of market share. Also as noted previously NESAs recommends testing and trialling the panel arrangements with expanded choice and minimum caseloads. This will be essential to an effective ongoing service system built on current strengths.

11: Ratio between service fees and outcome fees

Providers would like to see more detail on the financial model and transparency on how this will take shape. It must be informed by detailed understanding of how services operate. Furthermore, it is not possible to sensibly answer these questions unless some of the other design questions are answered.

If there are greatly increased opportunities for participants to transfer providers and quarantined participant controlled funding then it would be appropriate to have an increased percentage of service fees (if not abandon the outcome fees altogether). However, if the basic strengths of the current DES structure are maintained and built-on with market share allowing place-based investment and with more flexibility in how funds are spent, then a higher outcome fee percentage would be appropriate. However due to the specialised nature of early investment in DES participants our members (who work across jobactive and DES) are clear that the extremes of the jobactive model should not be duplicated.

It would be useful if the DES design took into account the recent experience of the jobactive transition and tried to avoid some mistakes. For example, one issue is that providers are not receiving outcome payments until up to 8 weeks after the claim has been made. This exacerbates the tensions with an outcome weighted payment system and is a particular concern in DES where often more intensive support is required upfront.

As already noted, providers would like to see service fees maintained instead of establishing an employment fund type arrangement as established in jobactive. The latter approach has created a large amount of administrative burden with little value-add and reduces flexible investment.

Risk adjusted outcome fees will provide incentives for appropriate levels of investment if implemented well.

12: 4-week and 52-week Outcome Payments

1. What should constitute an employment outcome under DES in a modern Australian economy?	<p>Members are pleased to see that there may be consideration of a wider range of employment types and outcomes within the detailed design of what constitutes a payable outcome.</p> <p>This is critical in a rapidly changing labour market environment with a wide range of new opportunities for intermittent but rewarding work available for people with disability. Technology creates opportunities that never used to exist but also pose challenges to traditional business models and related job security. Members would like to see tracking over 52 weeks that allows for more changeable and diverse ranges of work types – with ups and downs.</p>
2. How should the DES funding model incorporate the growing number of short term jobs available in the economy?	<p>It is a feature of some disability types that people require access to intermittent work opportunities. New digitally based micro businesses or more casual employment contracts are an opportunity, as opposed to a hindrance, for many people in this situation. In the past they could not gain employment, or lost employment as they could not guarantee regular attendance as required in many permanent employment contracts. Some new flexible work forms such as provided by 'Airtasker' offer an opportunity for participants to take complete control over when they work which makes work much more viable.</p>
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?	<p>There are diverse views on the 4 week outcome. However, most providers prefer a placement fee primarily because it involves less administration. The number of fees available per jobseeker in a way depends on how a longer term outcome is tracked. As noted above, intermittent work with intense periods and breaks should be more flexibly allowed. If this is the case then there is less need for numerous 4 week payments.</p>
4. How should job seekers be supported in the period between the 26-week outcome and the 52-week outcome?	<p>As with all support under DES, the nature of support needs to be tailored to the specific circumstances. Some likely support that could be useful includes employer mentoring and being available to address any questions that arise. The job in jeopardy can be a useful resource also. For people who have set up micro businesses or who are working in an ongoing casual arrangements there may be a need to support them with financial management and planning to cope with fluctuating fortunes while maintaining sufficient financial security.</p>
5. What level of payment should be attached to the 52-week outcome while keeping total DES expenditure within the current funding envelope?	<p>It would be useful to collect evidence about particular practices that are effective in different circumstances</p> <p>There will need to be additional financial recognition of 52 week outcomes as this will involve more contact and support over a longer period. Given that this is a new requirement it does not make sense that it be expected to be maintained in the same funding envelope unless some other requirement is relinquished.</p>

13: Service Fees and risk adjusted outcome fees

<p>1. How should service fees work in the context of a funding model with risk-adjusted outcome fees?</p>	<p>Risk adjusted outcome fees should provide an effective incentive to invest in quality practice if they complement the current framework for DES and if service fee and other necessary funds are not bogged down in administrative matters and prescription (as has been experienced in jobactive).</p> <p>Clearly outcome-adjusted fees should be set at the point of entrance to the programme because assuming early investment works as intended it will likely alter the identified risk factors that set the fee. It will be critical to get this entrance setting right in a planned review of the gateway and assessment processes. This process can also determine access to appropriate levels of service fees. It will also be important to adjust the fee if there are significant non-vocational changes to circumstances that will impact the risk factors that are considered.</p> <p>Members have noted that risk-adjusted outcome fees will not work well with a scenario where participants can change providers often. In this scenario there will be a perverse incentive to entice a participant to switch after they have been invested in and are job-ready. This could potentially create the recent VET reform mistakes where providers offer customers free iPads to get them to join their organisation and then collect fees without having performed the main service.</p>
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14: Pro-rata service and outcome fees

<p>1. How should pro-rata service and outcome fees be calculated?</p>	<p>Early input can be very important so if there is a switching around between providers a pro-rata arrangement will be required but it will be complex to make sure this arrangement is fair. Most likely an even count across the time that a client was being provided with services is the only way to do it without creating undue complexity. This may not apply to the ongoing support arrangements which are discussed later.</p>
<p>2. How should pro-rata fees apply in the event that a provider ceases to be a member of the Panel?</p>	<p>As with any commercial arrangement providers should be paid for the services they perform under their contract. This continues to be the case whether or not a client has transferred or whether or not they are still on a panel. If they are no longer a legal entity then the fees would be payable to the creditors.</p>

15: Determining Eligibility and Employment Outcomes for ESLs

<p>1. Who should be able to qualify under revised assessment criteria for ESL?</p>	<p>Young people with disability of legal working age should be able to access and participate in DES services while still in school. This includes access to support for after school, weekend or holiday work and work experience.</p>
<p>2. How could the level of disadvantage and work capacity be assessed for secondary school students?</p>	<p>There is good evidence that if a young person has work experience during school and immediately after, their chances of successful participation in the labour market as an adult increase dramatically. This is the case for all people and especially so for people with disability. However, young people with disability can find that disability-related barriers, a lack of independence and sometimes a lack of family and community support make it difficult for them to find this work in the way that their peers might do. Investment by DES at this critical life juncture will</p>

pay off in reduced long-term welfare dependency and broader improved outcomes in nearly every sector of life.

All young people with disability not eligible for NDIS support should be able to access this DES services voluntarily. Providers should be paid on an outcomes basis to encourage their active recruitment of students and the achievement of outcomes. There should not be a capacity-to-work barrier and low hour work experience should be payable.

This investment should be evaluated in the way the 'priority investment approach' is being considered as we believe a universal access approach and positive experience for participants could make a very significant difference to long term outcomes and the overall intransigent disability workforce participation statistics.

16: Improving the Gateway

Improving the gateway and assessment processes is a priority for improving the DES framework capacity to deliver the right level and type of employment support to those who will benefit and to better meet employer needs. This area of reform will likely make the biggest difference to the poor performing participation statistics often cited in the 'case for change'. There are three central goals for an improved design that NESAs believes are critical:

1. **Widening access to appropriate specialised employment support to all people with disability, illness or injury who want to work and require support to gain employment.** This means access should not be constrained by 'benefit status,' or by assessed 'capacity to work' (an inadequate assessment without specific work in mind). It also means that whether or not DES is the appropriate service should be determined by people with disability regardless of whether an assessment shows other non-disability related barriers to employment. This latter idea would put choice and control in the hands of people with disability in an effective way.

This may also help address a serious issue raised by providers that there is an under-representation of Indigenous people and other culturally diverse groups referred to the DES programme. It is suggested that this under-representation is because the assessment and gateway processes may have deemed disability as less of a barrier to employment than an individual's ethnicity and thus referred people to jobactive.

Wider access should also help remove the perverse psychological incentives associated with proving incapacity in order to gain income support.

2. **Enabling earlier interventions** as detailed in the previous section.
3. **Enabling career-focussed and co-designed principles to determine the strategies of support and resource allocation.** In NESAs previous submissions we outlined members' practice-based proposals to incorporate a 'career planning' approach into assessment as a strengths-based way of determining appropriate support. This career planning approach includes:
 - a focused assessment on a person's career and not just point-in-time capacity
 - a more targeted and individualised approach to defining and planning supports (rather than programme defined)
 - lifelong connection to assistance by the nature of a plan across a person's career

NESA members generally agree that the key characteristics needed for successful career planning services include:

- knowledge of disability and the relationship to employment
- knowledge of local and future labour markets and broader industry and employer needs
- ability to define skills and competencies as they relate to roles and more importantly job tasks within roles
- knowledge of skills-development processes
- knowledge of local services and supports available to assist in plan-implementation and employment goal achievement

4. **Reliably determining individual strengths and risks to successful employment which inform career-focussed strategies and the allocation of access and levels of resources.** This will be important in any scheme that involves risk-adjusted outcome payments and increased flexibility in practice options. NESAs members have had long-standing concerns about the efficacy of maintaining DHS as the main gateway to services – and particularly the use of the JSCI & ESAT/JCA as tools in eligibility and streaming. Often these tools do not accurately assess or reflect the needs and circumstances of job seekers.

Assuming an alternative gate-keeping, eligibility and streaming process to services is not identified the current tools do need to be independently evaluated, and processes redeveloped with the aim of both strengthening and streamlining. NESAs is pleased to see plans to do this but note the timelines mean they will not be a component of the initial reform. What other aspects of ESATs/JCAs should be examined in the review?

17: Assessments Review

As noted above there is a need to review the reliability and validity of the assessment tools. This should include consideration of scope and purpose. NESAs members generally believe that these assessment tools should not be used to determine intervention types and an in-depth career approach implemented by providers and/or independent bodies must supplement the process.

NESA strongly recommends a trial test and learn approach to these developments.

18: Ongoing Support

There are mixed views about whether there should be a separate fee-for-service payment for ongoing support during employment. The main concern is potential additional administration costs. However these could be reduced considerably if evidence-based standardised packages of funding for anticipated support are developed and automatically assigned for different disability and employment related circumstances. Providers could then apply for additional funds if required under some exceptional circumstances.

To assure quality and minimum standards this area would again benefit from a strong practice focus recognising key skills and attributes amongst practitioners. It is practitioner judgment that is best placed to determine the exact hours and nature of support that will be most effective. If additional fees are weighted towards outcomes and maintenance of employment this should be sufficient organisational incentive when coupled with a co-regulation approach to service quality.

Determining appropriate payment levels again needs to be determined by practice and NESAs recommends additional evaluation and testing of service models.

19: Job-in-Jeopardy

NESA members believe that outcomes could be considerably improved through simply being able to intervene when needed to ensure the current role is able to be maintained (without the rigidity of the

current programme requirements for Job-in-Jeopardy) to move into a different role with the same employer, or to transition to a new role with a new employer.

While there is a role for a 'job in jeopardy' programme, sufficient flexibility with existing contracts, including ongoing support can achieve similar outcomes without the potential stigma of the title. A new title would help –similar to workplace assistance. It is also important to note that the lack of awareness of the potential use of these services by employers should be improved by employment services engaging with employers.

20: Transition Issues

Continuity, stability and certainty about what support will be available will be important for achieving optimum outcomes for participants and employers throughout any transition process. This requires more consideration and attention and an articulated commitment to some ongoing support while a transition is occurring.

Given the scale of change proposed and the lack of evident knowledge of the financial, operational and practice models that will be required, there is a need to tread carefully and iteratively, collecting information and evidence as the change progresses to inform the next phase.

An iterative approach also enables effective investment in developing sector capability and change management to ensure core infrastructure, social capital, networks, skills and knowledge are maintained or transferred into new settings. A longer transition model from 2018 – 2023 would be a measured change management approach. NESAs has stepped out what we think could be achieved in the first 4 years (see **Figure One on page 8**).

Members also request that the Department be mindful of the level of simultaneous change occurring in parallel sectors. Many providers work across a range of sectors including disability support and other employment service programmes. This means collaboration across departments and where possible not further complicating or confusing systems.

Once specific models are decided on there needs to be business process mapping with provider input to inform the development of relevant IT systems. The experience of jobactive is that where this step was missing there have been numerous operational problems down the track which have been detrimental to the programme and expensive to fix.