

# NESA's Response to the Proposed licensing system for the New Employment Services Model

Discussion paper

October 2020



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## About NESA

**The National Employment Services Association (NESA) established in 1997 is the peak body of the Australian employment services sector. NESA is dedicated to a vision of opportunity for everyone through employment and inclusion.**

Employment inclusion and participation are cornerstones of the economic and social health of society. For the individual, employment participation is more than a means to income; it provides connection, purpose and inclusion. Employment participation and productivity are key drivers of economic growth and underpin the quality of life of all Australians enabling access to such things as a well-functioning health system, quality education and strong social safety net.

The Australian employment services sector plays a critical role in preparing Australians to participate productively in the labour market and connecting them to employment opportunities.

NESA's mission is to lead a sustainable, effective and diverse employment services sector to support individual job seekers and employers and to contribute to our nation's achievement of employment participation objectives.

NESA membership encompasses the breadth of Australia's diverse labour market assistance programmes including jobactive, Disability Employment Services (DES), the Community Development Programme (CDP) and all complementary programs and services. A large proportion of NESA members deliver multiple programmes.

Our membership is extensive and diverse, and open to all contracted providers (for-profit, not-for-profit and public). To illustrate, of providers of Australia's largest employment programme – jobactive – NESA members have a collective footprint covering 100% of Employment Regions.

NESA delivers intensive policy, operational and capacity building support to member organisations. NESA works collaboratively with Government Departments, agencies and non-government stakeholders to support the effective delivery of labour market assistance and social policy. Our extensive membership and intensive member and stakeholder interaction provide unique insight into the policy and operational settings that underpin effective labour market assistance.

## Introduction

The jobactive program implemented in 2015 has been achieving more employment outcomes than its predecessor programs. However opportunities for improvement led to an extensive consultation process to design the Next Generation of Employment Services in 2018<sup>1</sup>. A considerable investment of time and expertise has been invested in making a contribution to the development of a new model of employment assistance. This included an Employment Services Expert Advisory Panel, 560 participants in consultation sessions and 451 written submissions. This consultation process culminated in the release of the I Want to Work report<sup>2</sup> which provided a blueprint for future employment services.

NESA welcomes this opportunity to contribute to the development of the proposed licensing system for the New Employment Services Model. This is an important part of the new model as commissioning and contracting arrangements have far reaching impacts on all aspects of employment services programs.

The discussion paper states that the proposed licensing system has three major objectives:

- Driving quality outcomes for job seekers and employers
- Simplifying the approach for providers to enter and exit the market
- Reducing the cost and disruption of procurement

The discussion paper also outlines the design principles that will shape the licensing system as being:

- Streamlining procurement
- Responding to local needs
- Providing choice for job seekers and employers
- Encouraging greater diversity of providers
- Rewarding strong performance
- Harnessing specialist expertise
- Balancing flexibility and market stability
- Leveraging new and improved digital capabilities

The licencing system is a key driver of how providers compete and collaborate in the marketplace and the I Want to Work report indicated an objective of the new employment services framework was to foster greater collaboration. While the discussion paper references competition and diversity of providers it makes no reference to collaboration, the sector believes this important objective should not be overlooked.

Design of employment services programs incorporates many elements which need to work together to ensure objectives are met and to avoid unintended or perverse outcomes. It is therefore necessary to consider all elements individually as well as their interaction with other key components to ensure a cohesive framework and robust program design. At this time many elements of the proposed model are still undecided, in development or are in trial stage. As such an informed and definitive response cannot be provided on all areas canvassed without understanding other fundamental components of the model in particular the proposed performance management framework and service payment structure.

NESA recommends this discussion paper is part of a continuing consultation process that will enable further input as all elements come together in a final proposal. NESA is committed to partnership and collaboration with stakeholders to achieve an employment service that supports Australians to find employment, which in the context of COVID-19 are more critical. NESA, the employment services sector, our community and business sector stakeholders have all indicated they welcome the opportunity to provide further contribution to this significant reform upon release of a discussion paper.

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<sup>1</sup> The next generation of employment services discussion paper, Department of Jobs and Small Business 2018

<sup>2</sup> I want to work, Employment Services 2020 Report, Department of Jobs and Small Business 2018





## CHAPTER 2

# Establishing a panel

## Chapter 2 – Establishing a panel

The employment services sector understands it is intended to procure New Employment Services (NES) through panel arrangements. Panel arrangements have been selected with the objective of increasing the responsiveness of the model enabling a provider to be swiftly introduced into locations as required without the need for expensive and resource intensive tenders which also removes potential barriers for smaller organisations wishing to participate in the delivery of employment services.

### 2.1 Should generalist and specialist organisations be included on the same panel?

It is the prevailing view that there should be equity in the treatment of generalist and specialist providers regardless if they are on the same or separate panel. **Most providers were of the view that separate panels on face value offered no benefit and were not warranted.**

### 2.2 How long should the panel be in place for?

The discussion paper outlines that a panel duration of six years is preferred rather than a shorter (e.g. 3–5 years) or longer (e.g. 7–10 years) option. Six years is argued to provide an appropriate balance by allowing sufficient time to realise efficiencies, as from red tape reduction resulting from fewer procurement exercises and offering flexibility to the department to make significant change to policy settings. The sector agrees frequent procurement processes create unnecessary disruption to job seekers, employers and absorb resources from both provider organisations and the department that could be better invested in ongoing improvement and service delivery. The sector notes that traditionally the department has reserved the right to make significant change to policy settings during a contract period within the terms of the DEED and envisages this will continue in NES regardless of the duration of the panel. The sector considers a longer panel period would be more advantageous.

**The sector considers panel duration of 7 – 10 years preferable.** The current length of jobactive contracts which NES will replace are 5 years. It is hard to discern from the discussion paper how efficiencies will be realised by extending the period between major procurement events by only one year. The sector considers that investment in preparation of the Request for Proposal for NES is likely to be as significant as previous procurement arrangements. The proposed licence model also includes additional annual requirements to remain on the Panel. Processes during the life of the proposed panel and sub-panel appear similar and as complex as current procurement related processes. As such, a Panel of longer duration has more opportunity to realise efficiencies. In addition, the paper contends Panel duration longer than six years could potentially slow down the flow of new entrants into the provider market and the innovations and new perspectives they might offer. The sector is unclear about the phrase 'slow down flow' of new entrants. As it is understood the objective is to have a high performing model which would therefore have low demand for new entrants as opportunities will be principally dependent on existing providers failing to perform or having capacity gaps in relation to local needs. The sector appreciates the value of new ideas, insights and competition and considers the flow of new entrants should be facilitated and managed through regular refresh processes without the need to limit the duration of the panel.

### 2.3 In what circumstances should a panel refresh occur?

The sector considers the panel refresh process to be a significant element of the proposed arrangements. The sectors understanding is it is proposed that tenderers within their application will be required to submit responses for each Employment Region they wish to be considered for a contractual licence. Those deemed most appropriate will be placed on the Region sub-panel. The Region sub-panel will be the first point of call if a licence becomes available or an additional licence is needed for that Employment Region.

As such providers' greatest opportunity for growth in other Employment Regions throughout the life of the Panel is ensuring they have a place on Regional sub-panels. While acknowledging proposed NES arrangements differ to panel arrangements introduced for Disability Employment Services in 2018, the sectors experience nevertheless highlights the need for a panel refresh schedule.

Within the DES panel process a panel refresh may be conducted annually. On repeated occasions it was stated the first panel refresh was likely to occur at eighteen months (Tender Information Sessions). Some bidders strategically decided only to bid for Employment Service Areas (ESA's) aligned to their immediate business plan and wait for a panel refresh to seek opportunities for growth. Many tenderers however, held the view that the panel refresh arrangements were too fluid and decided to bid for more ESA's increasing the number of bids, complexity and cost of the procurement process for both tenderers and the government. To date there has been no Disability Employment Services panel refresh and providers have now been advised they will only be conducted as needed. As a result of this experience providers are likely to be more ambitious in the bid strategy for NES.

A panel refresh could occur on a periodic basis to enable new organisations to join the national Panel and potentially be added to Regional sub-panels. As such this would also ensure the diversity and depth of Sub-panels is maintained and aligned to emerging labour market and industry demands as NES matures and updated performance information is available. Existing panel members should not have to reapply but should be permitted to submit for additional Regional sub-panels to be in consideration for future business if licences subsequently become available in those areas.

**It is suggested that a schedule for panel refreshes is developed and maintained with clear information about immediate and projected potential indicative business levels at intervals of approximately every two years at which time existing Panel members are permitted to submit streamlined applications to be added to additional Employment Region Sub-panels based on merit of their Request for Proposal.**

#### **2.4 How else could the panel be used?**

As indicated in the discussion paper commissioning processes can be expensive and disruptive. As the department will hold details of panel members which are to be reviewed annually it could be beneficial to consider members of the Panel as pre-qualified for procurement of other related services to enable streamlined applications compared to potential new entrants. The panel would be a valuable first point of call for discreet projects.

The Panel could also be utilised as a think tank enabling both providers with and without a licence to input on matters such as the development of the framework, service development or particular initiatives. This may also encourage members without a licence to remain engaged in the panel and be updated with developments to the model.



## CHAPTER 3

# Issuing contractual licences



## Chapter 3 - Issuing contractual licences

### 3.1 How long should licences be issued for initially?

The sector understands that it is proposed that licences be issued for an initial three years to allow providers time to establish themselves and provide time to accumulate sufficient data on which to reliably assess performance.

NES is a significant reform of employment services with all major elements (Service, Performance, Contractual relationship) very different to the current paradigm. Experience across the life of contracted employment services indicates that additional time is required to implement a significantly different service model. The implementation of Employment Services Contract 3 which also contained significant reform, demonstrates that despite robust risk assessment, program design and transition planning, issues can occur which impede the capacity of providers to bed in service models and commence building performance in a timely manner<sup>3</sup>.

In the case of NES, it was intended that the new model would be fully trialled prior to its implementation and thereby reducing risk of unforeseen issues. However, the bushfire crisis and the COVID-19 pandemic have disrupted progress with many significant elements of the new model not yet developed or tested. The sector acknowledges more progress will be achieved prior to implementation in 2022. However it is also reasonable to assume that when these elements such as the revised job seeker compliance framework and the assessment model are developed they will also need to be tested and integrated into ESSWeb and this will now have to occur over a truncated period, adding to the risk of issues emerging.

The NES model is intended to increase the diversity of providers and better harness the potential expertise of specialist organisations. While the performance framework has yet to be developed, it is reasonable to assume that with potentially more providers and significantly fewer job seekers receiving Enhanced Services that it may take longer to achieve sufficient data on which to reliably assess performance. To illustrate, reformed Disability Employment Services commenced in July 2018 and as at March 2020, 309 sites continued to have insufficient data on which to deliver a Star Rating. It is the sectors experience that early data tends to be volatile with much greater movement between performance ratings in the early stage of new contracts.

**The sector recommends issuing licences for a minimum of 4 years.** While acknowledging that issuing licences for a minimum of four years may result in a more static market, a longer term offers a buffer if there are issues at implementation as well giving providers greater certainty which will encourage greater investment including in workforce, physical infrastructure and technology. As outlined in the discussion paper the department will retain capacity to terminate a provider's licence early under certain circumstances including contractual non-compliance or significant underperformance which should mitigate risks in relation to job seeker or employer servicing. NESA notes the I Want to Work report indicated licences with a duration of at least five years.

### 3.2 Should an organisation be allowed to service areas smaller than an Employment Region?

The discussion paper states that a new model will need to balance ensuring that there is adequate service coverage across the Enhanced Services network with offering greater flexibility in service delivery. This topic leads to a question regarding what the department considers adequate coverage.

With the implementation of the New Employment Services Trial (NEST) providers were given the opportunity to rationalise their existing jobactive sites to align to a viable site footprint under the terms of trade for NEST. The sector understands that trial providers were able to collaborate and negotiate to achieve a collective footprint that satisfied Regional coverage. In a traditional procurement process providers nominate where they wish to deliver services from within an Employment Region blind to the bids of their competitors. This has often led to market saturation in some areas and subsequent review of sites after contract commencement which can be disruptive. **In offering feedback into this submission NEST providers recommended that the department consider a process to enable providers to negotiate the number and location of physical sites once preferred providers are selected for an Employment Region.**

<sup>3</sup> ANAO Audit Report No.6 2005–06 Implementation of Job Network Employment Services Contract 3

Feedback regarding whether an organisation should be allowed to provide partial coverage of an Employment Region was mixed. While acknowledging the particular viability challenges for small specialist providers to provide full coverage of an Employment Region there was also concern about how partial coverage may translate in the performance framework. For example, a provider offering to service the most populous areas or those parts with the strongest labour market opportunity may have a performance advantage over a provider servicing the entirety of an Employment Region including depressed local economies. As such the recommendation is to ensure the performance framework is granular enough to account for the difference in location/coverage prior to allowing partial coverage. Furthermore, most providers giving feedback were sympathetic to small specialist licences but noted proposed market share should be a consideration when assessing adequacy of coverage. **It was the view that expectations for coverage should be the same for specialists and generalists with similar market share.**

Sector feedback strongly supports improved capacity for flexible service delivery outlined in the paper enabling a mixture of digital, phone and face-to-face engagement depending on the needs and preferences of each job seeker. In line with this the sector suggests that coverage should be able to be achieved through means other than dedicated sites. It is assumed that providers will have to propose a service strategy in their response to a Request for Proposal which would outline how they will service the Employment Region or part thereof and meet job seekers needs and preferences.

### **3.3 Should the number of licences be capped in each Employment Region?**

The sector considers that an uncapped market increases the risk of instability which is disruptive to job seekers, employers, other providers and the purchaser. The sectors experience with the introduction of panel arrangements to DES with no market share and no cap on the number of providers is indicative of the instability that may occur. To illustrate, following purchasing metropolitan ESA's had up to 40 providers and a number of small rural ESA's which previously had (and could provide sufficient business to sustain) one or two DES providers had up to 12. Within the first seven months of the DES contract commencing, over 40 organisations novated contracts. It is also noteworthy that part of the rationale for no market share in DES was to encourage providers to attract and directly engage the substantial number of eligible people living with a disability who were outside of the labour market. In contrast there is a defined gateway into NES and a finite number of eligible job seekers.

**The sector strongly supports placing a cap on the number of licences in each Employment Region appropriate to the size of the anticipated caseload and informed by modelling to ensure financially viable licence that enable objectives for reduced caseloads to be achieved and choice is provided to job seekers and employers.**

The sector welcomes the department's intent to indicate the approximate number of licences to be issued per Employment Region in the Request for Proposal and it would be beneficial if these indications were made available earlier with the release of the Draft Request for Proposal.

### **3.4 When should new licences be added to a region?**

The sector understands that a variety of circumstances may arise during a licence period that could potentially put the service network under pressure nationally or within an Employment Region. However, it will take time for a new licence to be issued and a new provider to establish a presence and implement services which may be longer than it takes for existing licence holders to scale up. It would be particularly difficult for Panel members without appropriate quality and cyber security accreditations in place to achieve a timely entry into a Employment Region.

**Adding licences should only occur by exception when there is a clear capacity gap in an Employment Region. Such measures should also only be undertaken following a consultation process, confirmation that existing licence holders do not have capacity to scale up within a reasonable timeframe and the Employment Region's providers are given a clear understanding of the impacts of this action on their market share.**

Where providers are performing well they should have the opportunity to grow. Where there is significant growth in an Employment Region and the department decides additional licences are warranted, this should be aligned to licence review processes wherever possible.

### 3.5 In what circumstances should short-term licences be issued?

Short-term licences have the potential to be disruptive to an Employment Region and should only be pursued for exceptional circumstance. The discussion paper outlines examples for short-term licences such as the need to respond quickly to major redundancy, closure of an industry or large employer. In such a case it states that the provider could be engaged for shorter durations (e.g. 12 months) to work directly with companies, industries and regions to deliver pre-retrenchment advice, services and transition support. The scenario presented does not indicate that the provider would be delivering Enhanced Services as such, but rather a discrete and time limited project. In a scenario such as that described, existing providers could be canvassed about their capacity to respond either alone, in partnership or subcontract and be invited to put forward a proposal, not excluding the department's options to invite proposals from other panel members, workforce specialists or parties.

Central to consideration of short-term licences where a caseload is involved is the NES payment model. As is currently being trialled in the NEST it is proposed to include a one-time up-front fee. In such a scenario the short-term licence provider would receive the up-front fee and on exit presumably the caseload would be transferred to the remaining providers without up-front funds to invest in job seekers, which may destabilise performance.

**The sector considers short-term licences should be issued in exceptional circumstances and only following appropriate consultation with existing providers in the Employment Region. If the department does issue short term licences they should be for duration of no more than 12 months.**





## CHAPTER 4

# Licence Reviews



## Chapter 4 - Licence Reviews

The sector welcomes that the Government has an objective to support a lift in overall provider performance as part of the licence review process. A collaborative approach by the department to work with providers to identify areas for improvement, potential causes of low performance and help providers develop strategies to strengthen their processes and allowing time for providers to rectify performance is welcomed.

The discussion paper states one of the objectives of the licence system for NES is to promote quality services to job seekers and employers. The frontline workforce is critical to the quality of services employers and job seekers receive, regular staff and provider changes diminish satisfaction with employment services. Security of employment is fundamental to the attraction and retention of skilled staff and the length of licences will inform investment in continuing professional development.

Minimising disruption to the employment services network would significantly increase stability of the workforce and deliver improved service continuity to job seekers and employers enabling stronger relationships and trust to be established. The I Want to Work paper noted turnover rates for 2015 as reported in the NESA Remuneration and Workforce Development Survey with a turnover rate 3 times the national average. It is not surprising that turnover in that year was excessive as the department will be aware in 2015 Job Services Australia ceased and was replaced with jobactive through a full market competitive tender resulting in provider numbers almost halved.

Increases in the turnover of staff also occur with each Business Reallocation process. NESA conducted a Workforce Capability and Diversity Survey in August 2018. This survey was responded to by 2251 frontline workers (Regional Managers and below). When asked about their previous experience in employment services it was revealed that 56.34% had been employed by more than one provider with the predominant reason for changing jobs (63.3%) being employment services provider contract ended. 9% of the sector had worked for 3 providers and 1% had worked for 10 providers or more. Other reasons for changing providers reflected job opportunities, different program opportunity, health and salary.

Most providers were opposed to the proposition in the paper to assess a provider's overall performance by using data from a longer period to reduce the impact of any short-term 'spikes'. It was a common position that current performance should dictate the outcome of a licence review. A number of providers commented that a short decline in performance has a long legacy under the current two-year rolling performance model.

**In the proposed NES framework it is recommended that the performance period be aligned to the licence review frequency which would continue to incentivise providers to maintain consistent and high performance and ensure decisions relate to current achievement or lack thereof.**

The paper does not offer clarity around awarding additional market share to existing high performing providers if a licence becomes available. While acknowledging that continuing to offer diversity and choice to job seekers and employers is important, the opportunity for growth is a significant performance incentive. The sector is of the view that when licences become available that awarding additional market share to high performers is given consideration. Additionally, the paper suggests that licence reviews will result in either a licence being retained or lost. The sector would like clarification on the department's position on inclusion of reduction to market share as an alternative in any circumstance.

The I Want to Work report outlines design improvements for NES including "Higher up-front payments will mean providers can immediately invest more in job seekers, leading to better outcomes. Higher up-front payments are used in the Transition to Work program and are considered to be a key reason for the program's success". The payment model and how it will impact on new providers as the market matures is an area requiring further consideration. The one-time up-front payment is currently used in the NEST and we understand proposed for NES. As providers are replaced through the review process they are likely to inherit an exiting provider's caseload. New providers will therefore not have access to up-front payments for the transitioned caseload, fewer resources to invest in job seekers and potentially increased risk of performance and or financial viability issues.

#### **4.1 How many performance groupings should there be?**

It is difficult to provide an informed position of the number of performance groupings in the absence of a performance model. The discussion paper outlines the proposal for having high, moderate and low performance categories; however, there is no indication of what these categories mean. While it could be assumed the categories roughly equate to current star ratings without clarity it is not possible to confidently understand how the review process is likely to unfold. For example, if an organisation met its benchmark are they a high performer or would they have to exceed their benchmark to be considered a high performer? If the categories are to be based on a model using distance from the average; what would the range be for each category in a 3 category model compared to the current 5 category model?

In the absence of detail, it is worth commenting that while on face value 3 groups may be sufficient it could also prove to be too blunt. For example, the 3 groupings do not distinguish a provider just below moderate compared to another who is well below. In relation to the names of the performance categories NESAs suggests that terms such as below average or insufficient rather than low or poor performance is adopted. We acknowledge under the current model 1 and 2 stars indicate low or poor performance compared to other providers. However, we also note that these labels are used by the media without context to sensationalise stories about the sector and such media has an impact on the public's regard for employment service programs, their administration and the providers delivering them. Reputation of the sector impacts potential relationships in the labour market and employment placement opportunities.

#### **4.2 How frequently should Licence Reviews occur?**

The discussion paper is silent on how the licence review would be conducted. For example, it would be beneficial to know if it is intended that the department conduct the review and inform providers of the outcome via correspondence or if there is to be an interactive process. There is also no indication if a show cause process will be available to providers to outline any exceptional circumstance or the like, that should be considered. The sector welcomes the concept of low performing providers receiving time to rectify performance and not extending licences rather than immediate termination. Assistance and ongoing support to providers to improve performance is also welcomed but further information about how this is likely to be delivered would be beneficial.

Providers are of the view that there will be incentives to be high performing to ensure the longevity of the licence regardless of the frequency of licence reviews. It is the sector's view having a high performing system is the primary objective and opportunity for new entrants is secondary.

The frequency of licence reviews will be heavily dependent on the timely availability of performance data. Providers note often Business Reallocation under current and previous arrangements have been protracted and destabilising while in process. There are mixed views about the optimal frequency of licence reviews. While some providers are comfortable with an annual review process, more feedback provided indicated a preference for an 18-month cycle.

#### **4.3 How often should providers receive performance data?**

Providers should have access to real time performance data that enables them to know with clarity how they are performing and that offers insight into further potential for improvement. Considerable feedback from providers indicated that the provision of point in time data is critical to a high performing system. In this regard a benchmark performance model is preferred as it increases the clarity of expected outcomes without the need to predict regression effects.

It will be beneficial to ensure that information regarding all measures used to assess performance is available to providers on a regular basis to support early intervention and continuous improvement. This should include information such as post program monitoring reports and job seeker and employer satisfaction reports.

#### **4.4 Should provider performance be publicly accessible?**

Transparency of the system, job seeker and employer choice is supported through the public release of performance data. Once there is confidence that performance data is stable, noting the volatility that often occurs in the early phases of program establishment, performance data should be released and then updated either quarterly or 6-monthly (whichever captures meaningful change in performance).

#### **4.5 When should the first Licence Review occur?**

The sector has predominately supported longer panel and licence durations with a preference for 18-month licence reviews. The first licence review could still be conducted in September 2023 as proposed and then move to an 18-month cycle. In addition to providing clarity of performance, if this is not already evident, it will also offer an opportunity to consider any transition and implementation issues that may have arisen.



## CHAPTER 5

# Specialist licences



## Chapter 5 – Specialist licences

Harnessing the expertise of specialist providers to support job seekers and employers is attractive. However, there have been various attempts to incorporate specialist providers in mainstream employment programs since the commencement of contracted employment services, without significant success. Typically, specialist providers have not performed well, resulting in their exit from the market. Pursuing inclusion of specialists has much merit but it is important to identify and address any systemic barriers to performance prior to the commencement of the market.

In its examination of Australian employment services, the OECD noted “providers specialised in Youth at risk, Mental health, and Homeless or at risk of homelessness, have on average relatively low Star Ratings. This seems to also be true for providers at remote sites and some depressed metropolitan areas. Research should investigate possible technical reasons why the Star Rating regressions over-predict expected outcomes for certain disadvantaged client groups. The OECD recommended that a check be undertaken as to whether Star Ratings adequately capture the disadvantage level of specialist provider clients”<sup>4</sup>. The sector does not have visibility if this recommendation was adopted or the nature or outcome of such an investigation, if it was conducted. The sector notes, an over estimation of expected outcomes of a cohort may become more evident with specialist caseloads but impacts all providers who service that cohort.

**Provider feedback into this submission indicates that fair and equitable treatment of generalists and specialists under the performance framework is critical to an effective licenced model of employment services. Appropriate testing of the performance model to ensure it properly accounts for job seeker characteristics, prior to implementation is essential. It is preferable to have a robust performance management system that is used across all providers rather than a separate model for specialists and generalists.**

### 5.1 Should cohort specialists only be referred job seekers from their target cohort?

Job seeker choice should determine referral to a specialist provider. Generalist providers maintain capacity to service all job seeker cohorts and there are various reasons for job seekers to decide to engage with a generalist or a specialist service. For example, an ex-offender or substance user may not want to draw attention to their circumstance by association with a specialist. The sector notes that in previous iterations there were instances of ‘generalist’ job seekers selecting a specialist for inappropriate reasons and they compromised the service experience of other job seekers on the specialist caseload.

**As it is proposed that providers can opt to bid for a generalist and specialist licence, specialists should only deliver services to their target cohort under a specialist licence.**

Gateway processes need to remain independent while providing sufficient information to support job seeker choice. Online gateway processes need to be designed with consideration to equitable treatment such as rotating the order in which providers appear on selection lists and equitable opportunity to outline a service offer. Specialist providers should only appear on lists where job seekers have characteristics relevant to the area of specialisation.

### 5.2 Which cohort types should have specialists?

There are many possible cohort types that have potential to be serviced by specialist providers however too many specialist types may be counterproductive and fragment the Regional caseload. Possible cohorts may include but are not limited to mental health, mature aged, CALD or particular cultural group thereof, refugees, youth, ex-offenders, Indigenous job seekers and people with a disability. **Selection of cohort types which may be beneficial to the employment services framework should be informed by evidence such as identification of cohort groups for who expected outcomes have consistently been under achieved.**

<sup>4</sup> ACTIVATING JOBSEEKERS: HOW AUSTRALIA DOES IT © OECD 2012

### 5.3 What factors should determine where specialists are located?

**The caseload characteristics of an Employment Region should dictate where specialist licences are to be offered.** To avoid instability which is disruptive to job seeker and employer servicing that potentially could arise from market failure consideration to the viability of all providers is essential in determining the sub-panel composition.

The provision of heat maps or indicators with the Draft Request for Proposal may enable further feedback regarding cohorts or Employment Regions for further consideration. Ongoing monitoring of the job seeker population should occur to identify significant trends in cohort numbers. This information should be shared with providers to ensure they build capacity in line with service demand as well as consideration to the role of specialist service provision in an Employment Region if there is a gap in existing provider's capacity to meet changing needs.

### 5.4 How should the new model interact with complementary programs (e.g. Transition to Work, Work for the Dole)?

One of the objectives for NES outlined in the Next Generation of Employment Services paper and the subsequent I Want to Work report is facilitating stronger collaboration between labour market intermediaries to improve service quality and outcomes for both job seekers and employers. The NES framework introduces potential new stakeholders including Local Jobs and Skills Taskforces, and Workforce Specialists. **As a foundation principle arrangements which support collaborative and joined up approaches should be implemented. This should ensure all providers are recognised for their contribution to a job seekers' journey to employment and meeting employer needs.**

Complementary programs and NES should operate in unison to meet job seeker service needs and arrangements should support collaboration. NES should remain the first destination for job seekers and those who require the services offered by complementary programs such as Career Transition Assistance, NEIS, Transition to Work be referred accordingly.

The sector supports the concept of activation and welcomes the greater flexibility to tailor activities to meet job seeker needs and preferences. Feedback from NEST providers indicates that this is having a positive impact on job seeker engagement and participation. The discussion paper does not provide clarity in regard to the expectations for Work for the Dole under NES arrangements. How Work for the Dole will unfold in NES will be related to how the points-based activation system operates, which we understand still in development.

### 5.5 How should workforce specialists operate?

The discussion paper outlines that workforce specialists would respond to workforce demand focused on servicing identified employer and industry needs. It is proposed that workforce specialists would operate only where there is identified significant workforce demand. **Providers consider that workforce specialists should be in a separate panel and as indicated operate under a separate DEED with tailored funding and performance model.**

Arrangements should support collaboration between providers and workforce specialists. Strong feedback regarding the need to promote the economic inclusion of disadvantaged and diverse job seekers such as those engaged in Enhanced Services was received. There is a prevailing view that the performance assessment and payment model should incentivise workforce specialists to put forward disadvantaged job seekers appropriate to roles when engaged to conduct bulk recruitment exercises, major projects and the like. This is particularly critical in the context of increased competition in the labour market as a result of the COVID-19 pandemic and the increased risk of long and very long-term unemployment to disadvantaged job seekers.

The paper indicates that workforce specialists would be expected to identify and package together existing programs and funding, such as wage subsidies, to deliver strategies to employers. The sector stresses, workforce specialists should understand the key performance objective of NES is to achieve significant and sustainable employment outcomes. A number of providers discussed challenges working with industry groups, associations and recruitment organisations that deem a placement an outcome. Funding of activities and initiatives that are not likely to lead to sustainable employment outcomes do not represent value for money and cannot be sustained.



## CHAPTER 6

# Market share

### 6.1 How should market share operate?

Market share arrangements offer a basis on which to plan and invest in the establishment of employment services. A reasonable surety of business levels enables ongoing investment providing a sound foundation for quality service provision and high performance. The sectors greater instability is experienced in arrangements with no market share such as the DES panel and are particularly challenging for new entrants.

**It is the prevailing view of the sector that market share arrangements for NES should be based on the current model and defined as a proportion of flow of job seekers eligible for Enhanced Services. This would include job seekers referred directly to Enhanced Services on registration and those transitioning to Enhanced Services after a period of engagement in Online Employment Services.**

### 6.2 How should tolerance work?

Tolerance bandwidths contribute to provider's business surety and capacity to plan and budget based on various business level scenarios. Importantly, tolerance also supports better capacity to meet job seeker choice of their preferred provider.

**Providers' feedback into this submission indicated that tolerances should be set at no less than 20% and no greater than 30%.**

### 6.3 Should a portion of market share remain unallocated?

**The prevailing view of providers is that 100% of the market share should be allocated to providers.**

Leaving market share unallocated is a new concept in employment service arrangements and requires further development. NESA is of the view, as we stated in earlier submissions related to reform of employment services, that a small proportion of the market share could be left unallocated for the principle purpose of supporting greater capacity to meet job seeker choice. This was a preferred position to arrangements with no market share. As stated in the discussion paper; promoting choice also provides additional incentive to foster higher levels of customer satisfaction and quality of service. The discussion paper states that the unallocated market share would still be referred to providers.

The discussion paper has included options not previously raised, for example, the department to use the unallocated share to introduce new providers without reducing market share held by existing providers and to avoid new providers commencing with a zero-market share. As indicated earlier in this submission the sector considers that introduction of new providers should only occur if a licence becomes available through exiting a provider, confirmed capacity gaps or exceptional circumstance not able to be met by the existing providers. An exiting provider's market share would therefore be available to support commencement of a new entrant. There should be a consultation and negotiation process regarding market share with existing providers if it is deemed a new entrant is required to meet needs in an Employment Region. Providers build capacity in line with business levels and a sudden drop in market share to accommodate new entrants will be disruptive and potentially contribute to undesirable staff turnover.





## CHAPTER 7

# Red tape reduction

## Chapter 7 - Red tape reduction

### 7.1 How can the licensing system help cut red tape?

The discussion paper outlines that in response to the consistent feedback regarding the need to reduce the administrative burden the design of the licence system includes improvements to cut red tape including:

- a reduction in the frequency of tender applications
- having a panel, with organisations ready to fill gaps in service provision should they arise
- the removal of business reallocation processes, which is a time-consuming exercise under jobactive
- harnessing digital technology to simplify and target communications and reduce manual administrative processes
- streamlining the Deed of Standing Offer and supporting guidelines where possible

While there is red tape reduction achieved through the outlined measures, on face value they appear to be strongest in relation to the department's purchasing and program administration. However, increasing the number of providers engaged in the delivery of service is likely to increase administration associated with contractual licence monitoring and management as well as quality and cyber security accreditations. The ability to maintain engagement of panel members without a licence is yet to be tested, and as such there is no guarantee that major purchasing events will be substantially reduced in the longer term. Assuming major purchasing events are minimised; these efficiencies have potential to be offset by regular panel refresh processes to be undertaken to ensure the diversity and depth over the life of the panel.

From a service provider perspective, the transition from current arrangements of 5 year contracts to the proposed arrangements of a panel of six years duration and initial licence issued for three years is inadequately compensated by reduction in red tape. On the information presented it is difficult to see a reduction in red tape for providers, particularly when consideration is given to new requirements. The annual panel renewal is an additional requirement. The proposed annual licence renewal process while appearing to streamline provider exit and entry offsets efficiencies gained from the removal of the Business Reallocation process and likewise less frequent tenders are offset by a panel refresh process and potential requirements to update information/proposals when licences become available.

The frequently asked questions state 'the reduction of the red tape burden associated with tendering is a key consideration informing the department's design of the tender lodgement process, including the form and focus of criteria'.<sup>5</sup> Despite the intent to support tender lodgement with improved technology, the proposed application process outlined in the discussion paper appears to be less resource and time intensive as previous processes. The sector notes the process includes new requirements to be addressed in relation to Right Fit for Risk as part of the Request for Proposal. Previous procurement processes have exempted existing providers from requirements to complete all or some of tender criteria but no such provision is proposed in the discussion paper. While the focus and form of the criteria are unknown the sector notes previous attempts to consolidate questions and reduce word count have increased the complexity of composing a response.

**To the degree permissible under Commonwealth Procurement Rules the Request for Proposal should be as streamlined as possible. This could include:**

- **Exempting existing providers from having to complete selected criteria where the department already holds the relevant and current information (for example: governance, performance, quality assurance, cyber security subject to conditions e.g. accreditation approval or performance above a designated level**
- **Limiting the Employment Region criteria to a single response (rather than one for employer and one for job seeker strategies)**

<sup>5</sup> Department of Education, Skills and Employment Frequently Asked Question 1.12

**The sector considers the achievement of continued reduction in administration and red tape should be an ongoing focus regardless of the method of procurement.**

The sector welcomes the potential to achieve streamlined DEED and guidelines for NES, where possible. The provision of simplified and targeted information to providers, automated reminders and alerts for panel members to action/update membership information is useful but do not represent a reduction in red tape. This highlights a need to find ways to meaningfully measure administrative and red tape reduction for the department and providers as well as demonstrating efficient use of taxpayer funds.

A long standing and major issue for providers is administrative creep and maintaining reductions in red tape achieved. The Advisory Panel on Employment Services Administration and Accountability (APESAA) Final Report delivered in 2011 recommended that a new Industry Consultation Forum be established to identify administrative improvements and other opportunities to simplify, streamline and enhance the Programs. The forum would facilitate cooperation and information sharing<sup>6</sup>. To date such a forum has not been established and at this time of significant reform, implementing such a forum would be beneficial.

**It is also recommended that the Consultation Forum have an immediate objective to commence working on an agreed measurement framework for red tape reduction. Once achieved a red tape reduction report should be produced annually demonstrating the savings that are reinvested back into Enhanced Services.**

## **7.2 What would assist smaller organisations to enter the provider market?**

The sector considers that it is imperative that in a commissioning process all applicants are treated equally and selection is based on an organisations capacity to meet qualifying requirements and the merit of the Request for Proposal. Streamlined application processes will be beneficial to all organisations that choose to submit a Request for Proposal.

Ensuring there is robust communication regarding the NES model, potential business opportunities and requirement to participate will support existing providers, smaller organisations and other potential new entrants. The duration of the application process contributes to the burden associated with tendering particularly by smaller organisations that generally have fewer resources to deploy. It is considered that allowing more than the minimum permissible business days would assist both smaller and new entrants to participate.

Significant time has elapsed since the release of the Next Generation of Employment Services discussion paper in July 2018 and the subsequent I Want to Work report in December of 2018. In the time since these papers were released development of the model has been progressed and trials have been implemented. New elements of the model such as the proposed workforce specialists have been shaped and may be attractive to organisations including those not engaged in the initial consultations.

**The release of an updated discussion paper that encompasses the entire framework as early as possible will assist potential tenderers, including smaller organisations to understand the market offer and provide a further opportunity to clarify issues and gather feedback.** In addition to the proposed service model this should include information about requirements such as indicative application requirements, coverage and cyber security accreditation to enable potential new entrants to assess the appropriateness of the business opportunity to their respective organisation enabling them to plan and budget for the commissioning process accordingly. The opportunity would then be further reinforced through the planned release of the Draft Request for Proposal following final approval by the Government.

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<sup>6</sup> Advisory Panel on Employment Services Administration and Accountability – Final Report Feedback 2011 accessed online [https://docs.employment.gov.au/system/files/doc/other/advisory\\_panel\\_on\\_employment\\_services\\_administration\\_and\\_accountability\\_final\\_report\\_feedback.pdf](https://docs.employment.gov.au/system/files/doc/other/advisory_panel_on_employment_services_administration_and_accountability_final_report_feedback.pdf)



CHAPTER 8

# Performance Framework and cyber security



### Performance Management

The sector understands that the performance management framework is still under consideration and a model is yet to be determined. The I Want to Work report outlined its recommended approach to the performance assessment model for NES stating “Performance benchmarks give providers confidence about what they are expected to achieve, and non-relative performance monitoring allows all providers to succeed if they exceed their benchmarks. Performance benchmarks are used in the Transition to Work program and this approach was supported in user-centred design workshops”.

Under this proposal providers would be compared to the benchmark, not to each other and those providers that consistently failed to meet performance targets or quality standards would not retain their licence. NESAs notes that while the benchmark performance system is not comparative the provider and the department would still have visibility as to the extent to which providers achieved and or exceeded their benchmark to inform future purchasing opportunities.

Many providers considered that the regression analysis used in the Star Ratings methodology reduced clarity and certainty. A benchmark model with an up-front target was considered to provide much clearer performance objectives for organisations and staff. A number of providers noted the negative impact on staff morale and the subsequent impact this had on performance when regression had a greater impact on performance ratings than predicted. As NES is intended to attract new providers including potentially smaller organisations new to employment services our experience is it takes considerable time for new providers to adequately understand the Star Rating methodology to manage their performance well. This being said some providers have built capacity around Star Ratings and are comfortable with the methodology.

NESA notes the current system of measuring performance by distance from the average was achieved after exhaustive modelling and consultation in response to the common experience of minor differences in actual performance resulting in significant differences in performance categorisation and consequential repercussions. This was deemed by all stakeholders at the time to be destabilising and offered no benefit to the overall performance of the framework or quality of services. The other common position from provider feedback is that forced distribution should not be part of the performance model.

#### 8.1 What measures could be included in the Provider Performance Framework?

A common view offered by providers is that the performance framework should reflect the key outcome objectives of the model and the target cohort in this case being the most disadvantaged job seekers.

NES is intended to provide an individualised case management approach to assist job seekers to achieve employment. Feedback indicates there should be avoidance of performance measures which drive performance imperatives to work more intensively with selected groups within the caseload rather than focus on each job seekers individual need. This includes measures which may create perverse outcomes such as diminishing recognition for achieving outcomes with job seekers who are the furthest from the labour market and require longer time in assistance to become ready for and obtain sustained employment.

**Principally feedback indicated that the performance management framework should focus on job seeker progress and employment outcomes.** Providers engaged in NEST particularly highlighted the positive impact on service delivery that the inclusion of job seeker progress in the payment model and consider its inclusion in the performance framework would further enhance this positive impact. In addition to defining particular activities or milestones such as training, work experience or building capacity for self-management, measures of improved job readiness and employability skills were recommended. Consistent measurement of improved job readiness could be achieved through the use of tools such as Workstar, Employment Readiness Scale or a customised tool developed.

Mixed views about how to include job seeker and employer satisfaction were reported. Many considered that satisfaction measures should be part of the quality assurance framework. However, there was overwhelming agreement that job seeker and employer satisfaction measures should be transparent and data made available to providers in a timely and regular manner to enable performance management and early intervention where required.

## **8.2 What features in the Provider Performance Framework would support the classification of high, medium and low performance?**

As stated various times in this submission, generally providers support a benchmark model as recommended in the I Want to Work report stating “Performance benchmarks give providers confidence about what they are expected to achieve, and non-relative performance monitoring allows all providers to succeed if they exceed their benchmarks.

With a benchmark approach, we anticipate that a model could be developed using a performance categorisation based on distance from the benchmark using range/percentage benchmarks were exceeded, achieved or under achieved. The range for each category should be based on modelling.

**NESA recommends consideration is given to forming a performance management working group to create opportunity for greater contribution to the departments’ development of the performance management framework by the sector and other stakeholders. Performance management working groups have been included in a number of past employment service reform processes and proved to be productive and effective.**

## **8.3 How can the department ensure job seekers and employers are receiving a quality service?**

Regular surveys of job seekers and employers provide valuable information on the key stakeholder’s satisfaction with services that can be utilised to maintain and improve service quality as well as inform policy and program settings. However, service satisfaction can be influenced by a range of factors other than the quality of service. Defining the key parameters of quality service is imperative to gaining meaningful data. It is also important to understand stakeholder’s expectation which will influence their response and can be low, excessive or unrelated/incompatible with the objectives and scope of the service. The sector considers it important that there is clear distinction between service quality and other factors such as satisfaction with policy settings such as work first, activation, job seeker compliance and mutual obligation. Integrity measures also need to be in place to ensure processes/channels deliver meaningful feedback and are not used to achieve malicious intent.

The department regularly undertakes surveys as part of its post program monitoring which the sector assumes will continue to monitor the satisfaction of job seekers and employers with NES. The customer contact line also provides insight into satisfaction with quality of services and more could be done to promote positive feedback through this channel.

A number of providers currently use tools such as Rate It to monitor customer service satisfaction. A National Council for Vocational and Education Research (NCVER) paper reviewed the manner in which the VET sector met their requirement to survey learner satisfaction.<sup>7</sup> A summary of key learnings were:

- Consistent and good-quality survey tools are essential for collecting reliable data
- Definitions of learner satisfaction are not uniform and the elements of satisfaction they measure can vary
- Greater uniformity in the fundamentals of survey design would assist in comparative analysis of performance
- Improved tools provide information that can use to guide decisions aimed to improve the quality of their services

**As such there is potential for the department and providers to agree on a standard quality service assessment tool to be used by all providers to monitor service quality and provide reports to the department at regular intervals. NESA considers that development of such a tool would be best achieved in collaboration through a working group and consultative processes with the sector and other relevant stakeholders.**

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<sup>7</sup> Measuring Student Satisfaction with Vocational Education and Training Services ... And Getting It Right! John Ward Chisholm Institute Of Tafe Published By NCVER 2008

**The stability and development of the frontline workforce is critical to the delivery of quality services. The sector supports an industry led professional development model as outlined in the I Want to Work report rather than prescribed requirements.** The sector currently attracts a diversely skilled and experienced workforce (see Appendix 1) and our experience is that no single qualification provides a basis for all roles and diversity increases collective expertise. NESAs have been working with employment service organisations, local and international professional development and best practice experts and has developed a professional recognition framework which it anticipates will be launched later this year. The professional recognition framework provides a structured approach to guide staff to the necessary competencies for various roles from new entrants to experienced practitioners complementary to existing qualifications and experience.

The framework includes tiered accreditation levels and continuing professional development requirements as part of the initial registration and renewal process. A further objective for NESAs outlined in the I Want to Work report is to facilitate innovation and learning through collaboration. NESAs have also been working closely with our international colleagues to identify ways to adopt their successful innovation hub and bench-learning methodologies within our industry driven approach to professional development as a future element of the framework. NESAs consider that this approach provides great opportunity to extend our reach and collaboration with the wider social service network, local and international employment service and research colleagues to inform and promote better practice. NESAs in consultation with members is open to collaborating with the department about how we may achieve regular workforce development reports being made available.

#### **8.4 How can providers' cyber security be improved in the new model?**

Ensuring cyber security is an essential imperative but the considerable effort and investment involved in achieving it must be acknowledged. The department can assist providers through regular communication and updates with advance notice of any proposed change to the system or supplier network, new or emerging risks and better practice learning. The department could also leverage economies of scale to offer options, (not mandated suppliers) to reduce the considerable costs involved in accreditation and like requirements.



## CHAPTER 9

# Next steps



## Chapter 9 - Next steps

### 9.1 What would ensure an effective transition from jobactive to the new model?

NESA and a large proportion of current jobactive providers have been engaged in the delivery of employment services since the commencement of outsourced employment services in 1998 and have experienced numerous transitions.

It is generally accepted that an overarching principle of transition should be to minimise unnecessary disruption to employers and job seekers. Achieving as seamless transition as possible is important to supporting service continuity, the reputation of the new program and that of related stakeholders including the department and providers. To support a seamless transition the following are suggested:

- Establish a reference group to govern all elements of the new systems and working parties to monitor the progress of transition and implementation of the program with appropriate stakeholder representation
- Ensuring an indicative transition plan is developed and released as early as possible and updated regularly
- Forming a transition reference group with key stakeholder representation to ensure all parties are working in unison and have a shared understanding of objectives, responsibilities timetables and key messages are consistent
- Forming working groups such as a guideline working group with targets to release guidelines prior to commencement of NES to give providers the best opportunity to understand all operational requirements, develop their internal policies and procedures, train staff and commence provision of services effectively and confidently
- Ensure ESSWeb is fully developed with a training platform and resources available to successful panel members ahead of implementation
- Providing strong positive communication to job seekers, employers and community stakeholders such as social and community services and industry bodies about the new program and arrangements to transition ahead of commencement and regularly throughout the transition process
- Ensure online communications and resources are highly visible and in place before transition commences
- Ensuring additional resources are available in the customer contact centre or other central resource to respond to calls from job seekers and or employers
- Allocation of Account and Contract Managers as early as possible to support transition, particularly for new entrants
- Fostering early connections between exiting and new providers
- Providing support to frontline workers who are displaced with the objective of retaining skilled and experienced personnel in the new network of providers
- Ensure compulsory branding and other marketing materials are available prior to providers commencing establishment of sites and commissioning works such as signwriting, web development and custom stationery
- Ensure transition arrangements allow sufficient provisions to undertake necessary tasks such as updating job plans to be completed over a reasonable duration to enable quality of interaction to be achieved rather than an overriding focus on speed

### 9.2 What lessons can be learnt from previous program transitions?

- The transition to new services should not be a surprise to any stakeholder
- Communications should inform stakeholders about the nature of change to programs and how it is different to current services and what potential benefits it means for them
- Messaging should be positive and where appropriate less formal
- Multiple channels of communication are required noting many job seekers do not open hard mail and others are not digitally and/or language literate
- Job seekers are diverse and many are vulnerable and do not cope well with change and some responses are significant
- Make provisions for unplanned issues and inability to meet the schedule, these challenges always occur
- Collaboration and partnership are the keys to successful transition

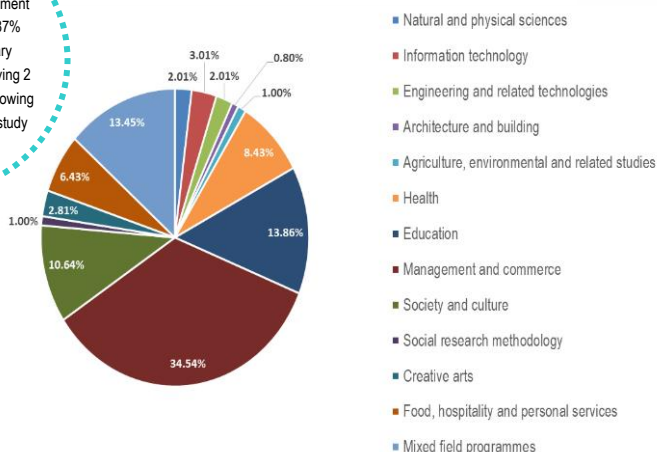
# EMPLOYMENT SERVICES WORKFORCE SNAPSHOT

Summary of NESA Workforce Capability and Diversity Survey August 2018

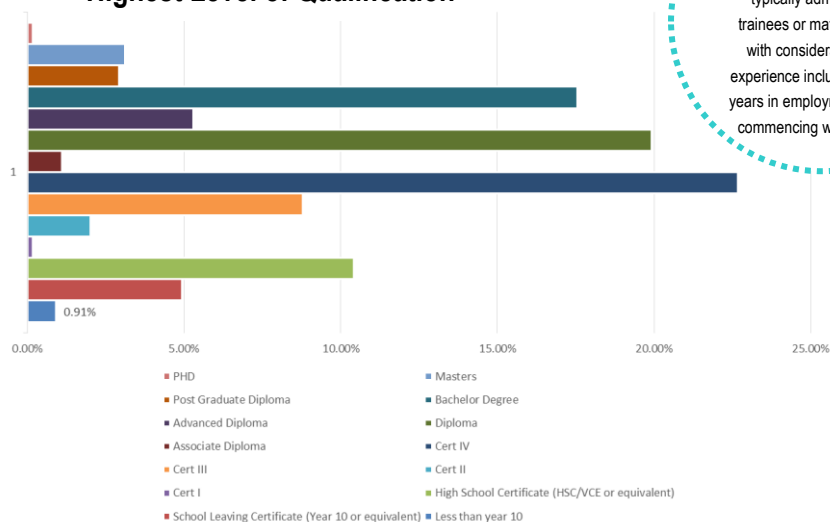
Respondents = 2251 frontline workers

In contrast to the urban myths about the skills of employment services frontline staff, 87% possess post-secondary qualification with 43% having 2 to 3 qualifications. The following graph shows the field of study by workers' highest qualification.

## Field of Study of Highest Qualification

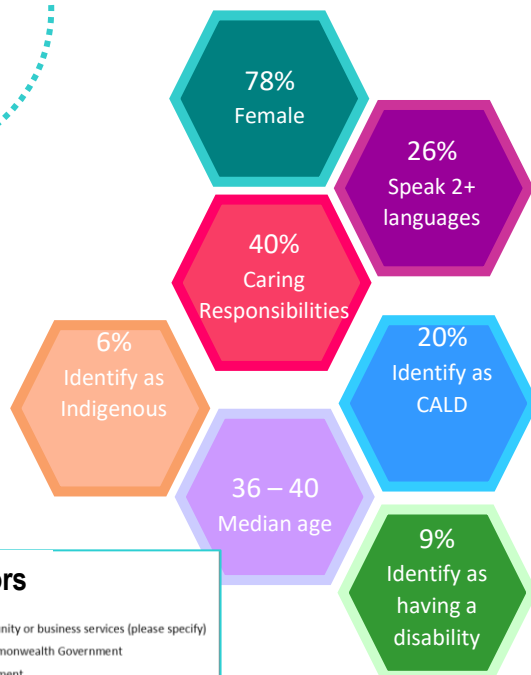


## Highest Level of Qualification

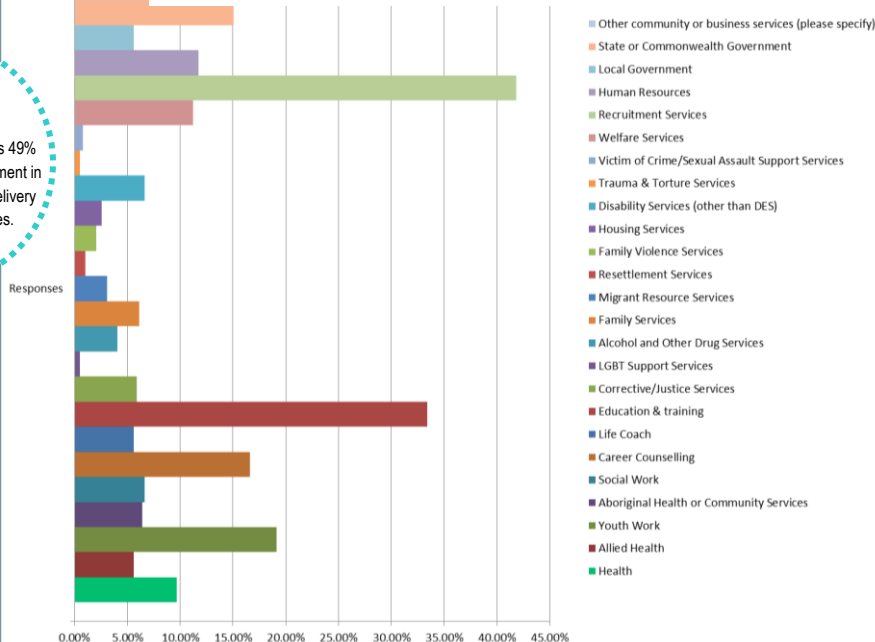


The 13% of the frontline workforce without post-secondary qualifications were typically administration trainees or mature workers with considerable sector experience including up to 40 years in employment services commencing with the CES.

## Employment Services Workforce Diversity Facts



## Previous Employment in Relevant Sectors



Of the survey respondents 49% had previous paid employment in a sector relevant to the delivery of employment services.

All data sourced from the: Australian Employment Services Workforce Capability and Diversity Survey (2018)



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