

**NESA's Response to the
DSS 2020 Formal
Performance Assessment –
Draft Industry Information
Paper**

January 2021





About NESAs

The National Employment Services Association (NESAs) established in 1997 is the peak body of the Australian employment services sector. NESAs 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.

NESAs'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.

NESAs 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 NESAs 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 – NESAs members have a collective footprint covering 100% of Employment Regions.

NESAs delivers intensive policy, operational and capacity building support to member organisations. NESAs 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

NESA received immediate and a significant volume of feedback from members following the release of the Draft IIP in late December 2020. Providers recognise formal performance assessment and review processes are essential to the effective administration of Disability Employment Services (DES). While not disputing the need for such processes, providers are strongly of the view that these processes must be conducted carefully to ensure that they do not deliver perverse or unfair outcomes which impact providers and the overall stability of DES. Primary consideration should also be avoiding unnecessary disruption for participants and employers. As such there is significant concern about the proposed timing of the IIP process.

Background

Significant reform of the DES program was implemented in 2018. Following implementation DES providers have experienced a number of issues and challenges which have affected the bedding down of the program and provider operations and performance. This includes but is not limited to issues such as:

- Availability of information to inform participant choice was absent with the first public star ratings published 31 October 2019 – 14 months after the commencement of the contract.
- The independent gateway function performed by Services Australia was the subject of feedback from implementation of reformed DES. Providers were inadvertently omitted from provider lists impacting their referral levels and arguably performance which took some time to rectify. As NESA has indicated in previous feedback information provided to job seekers and prospective participants was not consistent in keeping with the principle of independence with provider choice being influenced by recommendations based on limited information and personal perspectives of Services Australia staff e.g. “Provider X is across the road” or “I’ve heard Provider Z is good”.
- New market arrangements resulted in instability from the onset of the DES contract, largely as a result of what the sector considers excessive provider numbers in Employment Service Areas (ESA’s). Despite conservative projections based on the best available information many providers experienced significant resource and financial strains at the beginning of the contract. This was very destabilising requiring providers to review and adjust operations according to the realities of market arrangements with many choosing to consolidate or exit the market.
- Provider saturation and over contracting in ESA’s also impacted employer engagement with significantly increased competition and approaches to employers.
- Referrals and caseloads were also impacted by market behaviors, which were not addressed in a timely manner. In the absence of a speedy remedy providers had to amend their marketing and direct engagement strategies. NESA provided detailed feedback to the Department regarding these issues at the time.
- A number of issues with performance data and Star Ratings which resulted in the need for recalculation and regular delays to providers receiving their performance results since 2018, has undermined providers’ performance management. This situation has also created a level of uncertainty, anxiety and lack of confidence in the overall performance assessment process. In addition, performance measures have been modified during the contract period (Education Placements removed June 2020) further impacting provider capacity to predict and manage their relative performance position.

More recently national emergencies, weather events and the COVID-19 pandemic have impacted Australia since late 2019, through 2020 and continue to do so in 2021. The enduring, unpredictable and disruptive nature of the pandemic and containment measures has had an undeniable impact on the Australian economy and employment. The magnitude of impact of the pandemic and other events on local economies and labour markets has however, varied significantly. The treatment of performance assessment and remedies should be considered within the context of recent events and continuing impacts of the pandemic.



Formal Performance Assessment Principles

Effective performance management strategies are reliant on clear and sound data. The IIP Q&A states the Department's rationale for conducting the formal assessment at this point in time is that "The timing allows for sufficient administrative data to be collected to assess performance appropriately".

Providers agree with the assessment principles and acknowledge they provide a level of consumer assurance and service delivery. However, to achieve a fair process, providers require clear and transparent performance data and information on which to build their performance management strategies and sufficient time from the provision of such data to implement corrective action.

The proposed timeline outlined in the IIP does not provide adequate notice or allow sufficient time for providers to effect performance improvement. The proposed schedule for the implementation of performance assessment was not released until the 8 December 2020. Providers received the June 2020 Star Ratings on 10 November 2020. The September 2020 Star Ratings were received on 18 December 2020 leading into the Christmas Closure Period and only four business days prior to the end of the December Star Rating period on which it is proposed to conduct the performance assessment.

It is understood that delays in the production of the first Star Ratings of a contract are unavoidable due to the time required to gather sufficient data. However, the impediments to effective performance management without benefit of relative performance information across the life of a contract period must be acknowledged. Star Ratings were not provided to CEO's until June 2019 (1 year into the contract) and the sector notes that early rounds of Star Ratings are highly volatile with significant percentile movement more common. As noted, subsequent releases of Star Ratings have been delayed further depriving providers of essential relative data on which to manage performance. Providers have also not been able to draw upon other data they previously had access to such as ESRT Reports, Lead Indicator reports, comparative data reports which are significant data sources that support effective program and performance management.


In the implementation of reformed DES arrangements there was a commitment that performance management discussions would occur on a regular basis and providers would have notice of the need to rectify performance within a given time period prior to performance action being taken. Some providers report departmental discussions have been cancelled or postponed, in some cases up to 2 or 3 times. A reasonable proportion of providers now potentially in scope that did have discussions, report the Department did not raise performance or related concerns. Providers are of the view that if the Department has not raised performance issues and given sufficient notice to implement remedial action and enable improvements to be evident in performance data they should not be subject to loss of business at this time.

There is significant concern that the full impacts of the pandemic and removal of Education Outcomes are yet to be evident. As such providers are not confident that utilising the four previous performance quarters will provide a sound basis for performance assessment.

Unequal impact of events

Whilst regression and other contractual mechanisms can account for general circumstances and variances within fairly stable labour markets, there is limited confidence in the algorithms and calculations to adequately capture the veracity of the events of 2020 and associated operational and performance impacts at the local level.

The closure of international and internal borders and state-based restrictions significantly limited community movement and labour markets. Containment measures varied significantly across locations with Victoria recording the longest lockdown to date being 112 days. Even within States containment measures and resulting impacts on



labour markets and employment were and continue to be variable. For example, some labour markets have a heavy reliance on tourism. NESA has heard many anecdotal examples of the variable impacts to local labour markets as a result of the unprecedented events of 2020. For example, in New England ESA the bushfires ravaged and destroyed the biggest tomato grower in Australia, a primary employer in that community. In Inner Sydney and North Sydney there were no jobs in the middle of city, however, in some regional areas life continued on as normal with minimal disruption as a result of the pandemic.

Motivation to seek employment throughout the pandemic has been understandably diminished. The DES cohort are amongst the most vulnerable members in our communities and all efforts to protect, support and preserve health are necessary priorities. As a result, providers have encountered high levels of participant disengagement, lost outcomes and economic shock, slow return to business as usual, limited ability to engage with local communities and employers and varied restrictions across sites, ESA's and states. Where possible, providers have continued to engage and support participants throughout the pandemic by continuing to provide interventions, referrals and general support to much needed services, such as mental health. While employment preparation has continued many providers report that a high proportion of those engaged are reluctant to apply for work prior to a vaccine being available and there has been an increase in the proportion of the caseload that have exemptions noting high variability across individual caseloads within ESA's and between States.

DES providers were also impacted by the retention of job seekers in the Online Employment Service, a decision taken to relieve pressure on the system at the onset of the pandemic. This measure while necessary disrupted and created unusual peaks and troughs in referral flows which were variable across the sector and that required redirection of resources at varying times which impacted performance.

Education Outcomes

The impacts of the removal of Education Placements are yet to be realised. Up until June 2020 Education Outcomes contributed to performance under the Deed arrangements. The Department's decision to remove Education Outcomes from the performance framework reflected their concern regarding potential over representation of education opposed to employment outcomes by some providers. There is significant concern amongst the sector that the proposed timing of the performance assessment will give providers who have achieved good performance based on a high proportion of Education Outcomes an advantage and may result in providers who have achieved stronger employment outcomes being subject to performance action.

Extenuating Circumstances

There has been a succession of unprecedented events occurring since late 2019 including a national bushfire crisis, droughts, floods and other significant weather events. The onset of the COVID-19 pandemic has impacted the globe bringing with it an economic shock that has left no city or country unscathed. As stated by the Prime Minister in relation to the events of 2020 he has been clear, 'these are once in a lifetime events'.

The IIP clearly states that COVID-19 will not be considered as an Extenuating Circumstance as all providers have been impacted. The equity and fairness of this approach is highly contentious as local infection rates, containment measures and labour market impacts have not been equal as discussed.

Providing evidence of exceptional circumstance as the cause of poor performance is challenging. For example, in the scenario presented in which a providers' site has been claimed by bushfire a provider can give a range of information about how long it took to acquire new premises. However, it is difficult to present evidence about the variable emotional, economic and social impacts on staff, employers and participants resulting from the bushfires and their impacts on performance.

Potential outcomes

Performance Assessment and application of remedies has many potential repercussions on service users, employers, providers and their staff. As such the process and data used to inform the outcome must have the highest level of integrity to ensure confidence in a justified and warranted result.

NESA Key Recommendations – NESA suggests:

1. Exploring alternative solutions to assess performance, some suggestions offered by the sector include:
 - **Option 1** - Postpone the Formal Performance Assessment process (preferably for 12 months and 6 months at the absolute minimum). This would enable providers to manage performance informed by the recent Star Rating release and allow impacts of the removal of Education Outcomes to settle.
 - **Option 2** – Conduct the Performance Assessment process and implement performance improvement notices requiring Corrective Action Plan rather than apply sanctions at this point in time giving providers adequate time to respond to recently released performance data and demonstrate improvement.
2. Reinstate COVID-19 related impacts as potential Extenuating Circumstances to ensure unique local circumstances are considered.
3. Ensure the impact of Education Outcomes is thoroughly analyzed and considered including modelling Star Ratings with the exclusion of Education Outcomes to provide transparency, comparison and insight and increase provider confidence in decisions.
4. Provide more detail about the assessment process and how determinations will be reached, such as, what data will be used to identify trends to inform decisions.

Opportunity to Strengthen Performance Management

Providers have raised a number of areas where they consider Departmental engagement and communication on performance related matters could be strengthened to support improved program performance. These include:

- Provide a forward performance assessment schedule
- Improve information sharing between National office and the State Contract Management network. Providers report regular instances where Contract Managers are unaware of changes made by National Office or finding out information at the same time as providers and not being able to provide swift clarification.
- Ensure performance discussions between DSS and providers occur regularly and concerns are tabled.
- Increase Departmental engagement to ensure it is more frequent and interactive. Some providers report limited meetings or opportunities for direct engagement with DSS, with a small number of providers reporting they only receive communication from DSS when it is provider initiated.
- Review document management protocols to ensure the release of reviewed guidelines are accompanied by sufficient description of the reasons for, nature of and implications of the change, and reduce risk of non-compliance and administration associated with seeking clarification and reviewing work processes.
- Improve the response time for decision making and actions.

NESA is committed to a high performing DES program to ensure the best outcomes are achieved for all participants. We welcome the opportunity for continued dialogue with the Department to highlight and address sector concerns and priorities in relation to the formal performance assessment process.



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