

# National Employment Services Association (NESA)

Submission on the Department of Employment and Workplace Relations,  
Employment Services Complaints Service, Discussion Paper December 2024

## Executive Summary and Recommendations

The National Employment Services Association (NESA) acknowledges the need for a fair and transparent complaints process for job seekers, but is deeply concerned about inefficiencies, loss of provider participation in resolution of issues, and potential harm to the provider-client relationship under the newly implemented complaints system.

### Our key recommendations are:

1. **Restore Direct Engagement:** Remove the no-contact mandate, allowing providers to assist clients while lower-level complaints are reviewed. 'No client contact' should only be in place for more serious complaints.
2. **Consult with Providers:** Establish a formal working group to co-design an efficient complaints' handling process that minimises administrative burden
3. **Release policy justification** for the new system, including any evidence supporting the decision to remove providers from the complaints process.
4. **Separate complaints from investigations:** Establish a clear process where minor complaints are treated informally, and only unresolved complex or serious complaints are escalated to the Department for investigation.
5. **Ensure Transparency & Efficiency:** Define clear service standards, resolution timeframes, and reporting metrics to track the system's effectiveness.
6. **Publish information and resources** on the complaints process for job seekers and providers, accompanied by **formal training** for key stakeholders to understand their roles.
7. **Improve Data Access:**
  1. **Share complaints data** with providers to drive service improvements; and
  2. **publicly release** data relating to complaints related to Government systems and policy.

## Introduction

NESA welcomes the opportunity to provide input on the new complaints service for job seekers. A transparent, fair, proportionate and practical complaints process is essential to maintaining integrity in employment services. However, NESA is deeply concerned that the newly implemented complaints process has already resulted in inefficiencies, diminished provider accountability, and damage to the provider-client relationship.

Through extensive member consultation, NESA has identified key flaws in the design and rollout of the complaints service, including the lack of sector engagement, the no-contact mandate that disrupts service delivery, and a system that is misaligned to best practice complaints resolution models, including those used by Government. NESA is also concerned the model is not proportionate nor practical.

## Key Issues

### 1. Lack of Transparency in Implementation

The new process was introduced without sector consultation, leaving providers uninformed and unprepared. The Department implemented the new system in November 2024 without publishing a clear rationale or policy framework. Despite a brief announcement in the portal, providers only really became aware of the new process once they started to receive requests for information from an 'investigations' unit within the Department, accompanied by instructions to refrain from contacting clients.

Major concerns include:

- No sector consultation before rollout.
- No published justification for the new process.
- Absence of training, documentation, or resources for providers.
- No defined benchmarks for assessing the effectiveness of the new complaints approach.
- Unclear how government system-related complaints (e.g., mutual obligation suspensions; system failures; policy requirements) will be reported and distinguished from provider-related complaints.

### 2. Inherent Bias Against Providers

The system appears to assume provider fault before any investigation. Complaint notifications to providers are accompanied by proposed corrective actions before the provider has been allowed to respond. Additionally:

- Providers must implement government-mandated policies yet are held accountable for complaints arising from them.
- Government-related system failures are not transparently reported alongside provider complaints.

Further, the Discussion Paper states: *“Our aim is to develop a complaints service which is accessible and considers the needs of the complainant, particularly those who are vulnerable. Complaints will be handled impartially, confidentially and with empathy. The new complaints service will incorporate safeguards to ensure there is no backlash for making a complaint.”*

This statement risks sending a message to the public that the sector cannot be trusted, and that providers are unfair or unprofessional in addressing client concerns. NESAs strongly recommends the Government meets the same standards as required of Service Providers under their agreements whereby any information delivered by the Government in relation to the new complaints service is ‘presented in a manner that upholds and maintains the good reputation of’ the employment services’ sector.<sup>1</sup>

### 3. Harmful No-Contact Mandate

The prohibition on provider contact with clients during complaint investigations creates significant barriers:

- **Clients are left unsupported:** Job seekers cannot access essential employment assistance.
- **Delays in resolving employment barriers:** Essential interventions such as job placement support or resume assistance are put on hold and may harm the job seeker’s employment prospects.
- **Erosion of trust:** Clients may perceive providers as unresponsive when they are legally prevented from engaging.
- **Delays and inefficiencies:** Complaints that could be resolved via a phone call now take up to six weeks. This seems disproportionately onerous and impractical.

There is also no transparency in relation to vexatious complaints, and how the Government is safeguarding the complaints service from potential misuse to circumvent mutual obligation requirements.

### 4. Misalignment with Best Practice

While the new service emphasises accessibility for job seekers, it fails in key areas:

- **Lack of accessible information:** Neither job seekers nor providers receive adequate guidance on the complaints process.
- **Absence of transparency:** No clear progress updates, timeframes, or resolution tracking mechanisms exist.

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<sup>1</sup> See for example Workforce Australia Services Deed of Standing Offer 2022-2028 clause 15.1(a)(ii); Parent Pathways Deed 2024-2027 clause 6.1(a)(ii).

- **Inconsistent with existing models:** The process contradicts best practices used by the Commonwealth Ombudsman<sup>2</sup>, Services Australia, Australian Tax Office, the Health Complaints Commissioner, and the Department of Veterans' Affairs, all of which prioritise direct provider-client resolution before escalation.

## 5. Conflation of Complaints Handling and Investigations Processes

It is confusing as to whether this new service is a complaints resolution process, or an investigation process, as it appears the two concepts have been conflated. The Departmental team managing the complaints process have 'investigations' email addresses, and providers are required to have 'no contact' with the participant during the 'investigation' of the complaint. The process has not been published but was discussed at a workshop at the NESA National Conference 2024, wherein the attendees were advised the service follows a formal 'investigations' process, completely bypassing provider's internal complaints processes, or less formal external complaints processes.

The complaints process appears to treat all complaints as formal investigations, limiting informal interventions, risking inefficiencies and procedural unfairness. For example:

- **Unnecessary escalation:** Minor issues that could be quickly resolved (within 3 days) are subjected to an investigations process (taking up to 6 weeks), cutting out any direct informal resolution process with the provider. Only significant or serious complaints should be investigated.
- **Unnecessary resource drain:** Most complaints can be resolved informally through mediation or service improvement. Automatically treating complaints as investigations can overload systems, waste resources, and delay genuinely serious issues.
- **Confusion over roles and responsibilities:** Complaints resolution and investigative processes should be distinct but are currently blurred. These factors risk inconsistent decision-making, conflicts of interest and confusion. For example, 'investigators' appear to be expected to provide client focused resolutions rather than focus on fact-finding.

## 6. Need for Data Transparency

The current system is not designed to support improvement of providers service delivery. The system should be reflective, self-critical and innovative, with a culture that encourages all staff to look for opportunities to continuously improve programs and services.

To enable continuous improvement, providers need access to *all* the complaints data relating to their service. Data on complaints can help a provider identify any training and

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<sup>2</sup> [https://www.ombudsman.gov.au/\\_\\_data/assets/pdf\\_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf](https://www.ombudsman.gov.au/__data/assets/pdf_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf)

development needs; supervision or quality assurance processes; eliminate or reduce pain points for complainants; and reduce double handling of complaints.

Providers also need insights from Government relating to complaints due to Government policy or systems issues. This must be publicly available data, and easily accessible. Currently, it is not clear whether this data is being captured or differentiated from complaints made about providers.

## 7. Increased Bureaucracy and Delayed Resolutions

Previously, most complaints were resolved within 48–72 hours through direct provider-client engagement. Now, complaints take weeks or months due to:

- Bureaucratic multi-step processes between clients, the Department, and providers.
- Fear of departmental influence on complaint outcomes rather than job seeker-driven resolutions with language being used to ask for outcomes being bureaucratic language, and not the normal language of job seekers.
- Increased administrative burdens on already over-stretched providers.

## Conclusion

The current complaints system negatively impacts job seekers, damages provider-client relationships, and increases inefficiencies. NESAs urges the Department to:

- Reconsider the no-contact mandate.
- Restore provider involvement in complaints resolution, and
- Implement a fairer, transparent, and effective complaints process, without imposing additional administrative burden upon providers.

We appreciate the opportunity to provide this submission and look forward to collaborating with the Department to develop a fairer, more transparent and accessible complaints system.

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