# Disability Employment Services
# A new specialist disability employment program: Information Paper – Market Structure
# Response of the National Employment Services Association

## General comments

**Need for market analysis to inform financial modelling and market share**

The disability employment services market is a quasi-market fundamentally created by Government for the provision of employment and other support services to people in Australia with disability. Given the Australian Government's significant role in creating, funding, steering and regulating the market, the quality of Government stewardship plays a key role in the market's success.

NESA supports the retention of the 111 ESAs, and the potential to have specialists operate across multiple ESAs. However, determination of market share should be based upon evidence obtained through market analysis, including financial modelling, to determine what is a minimum financially viable caseload, and optimal financially healthy caseload. It is also important that this be accompanied by an analysis of the true costs in delivering a quality disability employment service. Without this information, it is difficult to appropriately determine market share arrangements. It is strongly recommended that the Department work with provider peaks, and providers to ensure that any analysis reflects the realities of service delivery, and the real cost of doing business.

No one ESA or region is the same. Given this, the market analysis should include data on individual ESAs that identify the issues, needs, nature of the market (whether thick/thin); data on indicative caseloads (for both generalist and specialist providers) and demographic mapping. This analysis will support an evidence-based distribution of market share, and identification of availability of 'specialist' providers to address regional and local needs.

NESA supports the allocation of market share among generalist providers. However, this market share must be balanced with the number of specialist providers licensed to operate across the region, to not advantage one provider over another. Smaller providers may struggle to sustain their business if they 'go it alone', or do not have the ability to engage in a joint venture or similar arrangement with a larger organisation with the appropriate infrastructure and supports. For example, the true cost of meeting Right Fit for Risk requirements, HR, legal, and OH&S, and other government regulatory requirements can be prohibitive to the participation of smaller organisations, noting these costs are continuing to increase. The Government more broadly has recognised the increasing toll on small business owners, recently funding more than $10 million in mental health and financial counselling support under the 2024-25 Federal Budget for small business owners.

There should also be genuine participant choice, as well as guaranteed caseloads (within an agreed market tolerance) to ensure ongoing business viability of providers and to avoid market failure.

**Procurement processes should learn from failures of the Workforce Australia tender**

Awarding of tenders should be based on merit.

The market upheaval that occurred with the introduction of the new Workforce Australia employment services model, with inconsistencies identified by the ANAO in the assessment process, should not be repeated within the disability employment sector. A balanced, quality-assured, merit-based selection approach should be taken for the next DES tender process to ensure fairness. This should include: assessing a provider's application based on past performance and quality of service; demonstrated ability to forge community networks and service satisfaction by employers and job seekers; and specialist providers demonstrating local connections in areas where they propose to service; and an ability to provide place-based face-to-face services, through demonstrating either existing connections, or local support to enter the market.

While the questions in this paper suggest consideration of ways to reduce the impact of a tender process upon smaller providers, *all* providers will still have to meet the same requirements to deliver a service that is in the best interests of jobseekers with disability. This should be the overarching principle guiding DES tender processes. This includes not only being able to deliver a high-quality disability employment service, but also having appropriate internal infrastructure (physical and cyber security), and governance mechanisms in place. Ensuring that there is a level playing field throughout both procurement and performance of the contract is key to enabling competition to work as intended and deliver benefits to job seekers, employers, Government, the community, and the wider economy.

**Government's core responsibilities as steward of the system**

As a good steward of the disability employment services program, the Government has performance accountabilities in its various roles, and these should be clearly developed with jobseekers, providers and employers and be reported on publicly. This should include: how well Government has supported the exercise of participant choice in referring participants to their provider of choice; and provision of access to easy-to-understand information about 'specialist' and 'generalist' providers, with the opportunity to access specialist services first, if the services match their needs.

Government should be publicly accountable in how it addresses barriers to accessing disability specialist employment services. For example, Services Australia should publicly report on their performance of how efficiently and effectively they have managed the referral process. This should include measuring whether participants are provided with timely information and supports to make an appropriate choice that meets their needs. Given many participants often have multiple (3-5) different disability or health related conditions, Services Australia should also report on the effectiveness and efficiency of identifying and referring participants to an appropriate specialist provider.

Further, given the historic challenges providers have faced with projected caseload, in contrast to 'real' caseload, it is also recommended the Deed include a review mechanism that can be triggered by the provider where they are (for example, 20%) underutilised in a quarter. This mechanism should initiate an immediate review with the Department, and the Department be required to take remedial action to address barriers of entry into the service leading to underutilisation. There should also be mechanisms within the contract for providers to obtain additional funding support to maintain viability where Government is unable to address underutilisation below an agreed tolerance level (for example 30%).

**Challenges in using 'generalist' and 'specialist' terms**

The terminology of 'generalist', 'specialist' and 'specialisation' is problematic. The program is called the new 'specialist' disability employment program. This title recognises that providers are already 'specialists' in this area, with a requisite level of professional expertise of working with people with disability, across a range of cohorts. The disability employment workforce has a strong core skillset relevant to the employment sector, but a well-developed set of specialist skills applicable to tailoring employment support to the individual needs of a person with disability. The term 'generalist' does not given credence to all providers being specialists across all cohorts and disability types. It also risks misinformation that 'generalist' providers are not qualified as disability employment specialists, potentially impacting participant choice. A preferred approach would be for recognition that *all* DES providers are deemed 'specialists' (in keeping with the name and intent of the program), with either single areas of specialisation, or multiple areas of specialisation.

It is also not clear what is envisaged by the terminology 'single' or 'cohort specialist,' and whether this is intended to be either a social demographic, or a disability cohort, or potentially a combination of both. Depending upon the demographics of an ESA or region, should a provider represent a single cohort such as First Nations, youth, CALD or other socio-demographic group, if the numbers of participants in their chosen area are low they may also need to support other cohorts/demographics, and therefore be considered more of a 'generalist' provider. Again, this determination is dependent upon strong market analysis to inform the modelling and market structure.

**RESPONSES to INFORMATION PAPER QUESTIONS**

| Consultation questions | NESA's response |
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| **Eligibility for Cohort Specialist or Generalist Disability Employment Services** | |
| Should organisations be able to apply for multiple specialisations under the one national 'cohort specialist bid'? | The challenge of a national bid is that sufficient evidence will still need to be provided within a tender process of local level connectedness to community, employers, and networks, as well as an understanding of key issues at a regional or ESA level.<br><br>Providers should be able to apply for multiple or single specialisations in the same ESA, provided they can demonstrate the capability to deliver a quality service, similar to the current DES and Workforce Australia contracts. This is essential for financial viability, particularly for smaller specialist providers.<br><br>The key priority should be to ensure that the tendering results in a 'quality service system'. The model should ensure that the system is not fragmented and that tenders are awarded to those providers that can demonstrate high quality community relationships, with established presence in community, and connectedness with local business, employers, trainers, and allied and mental health and other supports essential for the cohort of jobseekers within the program. |
| Does a cohort specialist provider and a general disability employment provider appropriately describe the two provider types? Are there other suggestions? | 'General disability employment' is not an appropriate term. All disability employment service providers are specialists in disability (see comments above). Using the term 'general' disability employment provider risks misrepresenting to the public the true nature of what a generalist does. It risks public misunderstanding that generalists do not have disability specialisation, or they are a 'second best' service offering. Better terms might be 'comprehensive' (general) or 'concentrated' (specialist) services.<br><br>Sub-specialisations could be described as 'cohort' specialists, however it should be clear whether 'cohort' disability relates to a disability type, or a particular socio-economic or cultural cohort, for example, First Nations, CALD or youth, or a combination of all these factors. |

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| | Tender documentation will need to be clear as to how a sub-specialisation is defined, or any categories of sub-specialisation. Specialisation of a discrete cohort should be of a large enough size to ensure a provider can be financially viable, and there is a sufficient percentage of the cohort within the region to maintain viability. For example, specialisations within intellectual disability, or acquired brain injury.<br><br>Government should ask users of the service as to what terminology is most meaningful to them, and co-design terms that resonate with users, and would encourage them to participate in either a comprehensive, or a discrete speciality service. Users of the service will want to go with a service that is described in a way that 'matches' them and sets them up for success and is aligned with their needs. Descriptors should also make the 'act of choosing' easy for job seekers. Participants need to be able to compare different offerings effectively and in an uncomplicated way, with clear explanations of the differences between service offerings that enable easy comparison between providers. |
| How can exceptions be managed, such as sub-contractor arrangements? | Sub-contracting arrangements should be considered as one of several exceptions. However, this should be balanced with sufficient safeguards that ensure 'quality' of service delivery by the sub-contractor.<br><br>The service model should have sufficient flexibility to enable exceptions to rules around sub-contracting and use of related entities to ensure that the participants have access to accessible and timely supports as required. This could include permitting partnerships, use of related services, or where appropriate sub-contracting arrangements. Sub-contracting arrangements may enable some smaller organisations (without the initial capital and infrastructure) to enter partnerships with other larger providers, while still maintaining quality of service. Exceptions are critical so that smaller providers that may not have the appropriate financial or physical infrastructure have the opportunity to operate within the market. Partnerships, consortia, or joint ventures could also be another mechanism enable smaller organisations to gain the benefit of the infrastructure of larger organisations (eg., costs associated with RFFR, HR, legal etc); and larger providers could benefit from the specialist expertise of smaller organisations. Overall, this could maximise and increase market service provision available to users.<br><br>Given the inherent problems for providers in managing sub-contracting arrangements, particularly in terms of ensuring maintenance of quality, another option could be to 'purchase' specialist skills. For example, just as a GP does not have certain specialist skills, they can refer a person to a specialist who has specialist expertise in a particular area of medicine. An idea could be enabling a generalist provider to refer, or bring in a specialist on an individualised basis, according to need. Mechanisms could also be in place to enable smaller organisations to work together themselves or join with a larger organisation as a consortium to provide a more comprehensive service in a particular region.<br><br>Many mechanisms are already in place to ensure safeguarding through regular reporting and monitoring mechanisms conducted by Government as holder of a vast amount of data and reporting.) Monitoring through reporting processes would be possible provided the Government invests in upgrading the IT platform with the requisite functionality. |

| Cohort specialist providers | |
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| Should organisations be able to apply for broad categories of specialisation such as 'mental health' or 'physical disability' | 'Mental health' and 'physical disability' would not be considered 'specialist' categories, but business as usual for any DES provider. There are however 'specialisations' within each of these categories. If these were categorised as 'specialist' it is not clear what the role of 'generalists' would be defined and whether they would be viable. Such a proposition does not align with the concept of equitable market share.<br><br>See the discussion above that specialisations for cohorts such as people with intellectual disability or acquired brain injury might be appropriate. Mental health would be too broad a category on its own (comprising a significant proportion of a 'generalist' caseload); however, specialisation for persons with diagnosed mental illnesses might be appropriate (as a sub-specialisation of the broader category of mental health).<br><br>It is important that categorisation and associated definitions are clear. This is critical for Government in the referral process. The Department's system needs to be sufficiently robust to identify the person may require specialist support and make the appropriate referrals.<br><br>The Department should consult with participants (with provider input) as to the most meaningful classifications/specialisations. |
| What safeguards could be implemented to prevent a specialist provider from receiving more participant referrals than it can manage? | An option could be to provide a minimum and maximum bid in relation to caseload size.<br><br>However, greater focus should be given to safeguarding against the more likely scenario that a provider may only ever receive 'minimum' caseloads, or underutilisation of the service impacting their financial viability. |
| Is there the potential for unintended consequences in the proposed specialist parameters that should be considered? | An unintended consequence could arise from confusion regarding categorisation, particularly what a 'specialist' or 'generalist' is – not only for providers, but also for job seekers and employers.<br><br>Unintended consequences may also arise if decisions are made regarding market share/parameters for individual specialists without an appropriate market analysis. Specialist parameters and market share for 'generalists' should rely upon evidence of indicative caseload, and regional demographics with an understanding of, or accounting for, differences between each ESA/region. No one ESA or region is the same, each has significant local variations. |

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| | A further unintended consequence is that if it is confusing for professionals (such as providers) to understand the different specialisations and where (and how) they operate across regions, and if Services Australia struggles to identify and appropriately refer participants to sub-specialists – then participants will be equally confused, creating a further barrier to entry into the specialist disability employment system. Language, clarity, and simplicity in explaining the system and how it operates will be critical to success.<br><br>Systems fail when they are not easy to navigate. It needs to be easy for job seekers to choose a provider of their own choice. Provider options should be set out in such a way as to not overwhelm people with information but provide them with clear understanding of the choices available to them, and where they are based. |
| **General Disability Employment Providers** | |
| Should a market share limit be introduced for metropolitan ESAs, such as 25%, to balance diversity, participant choice and viability of services? | The number of providers in the market (and their corresponding share of the market) must be linked to **anticipated caseload numbers** for both generalist and specialists alike, coupled with an understanding of the complexity of the anticipated caseload. This should also include a combination of small single areas of specialisation providers, through to national or large providers that are able to meet the requirements of large employers, whether from the profit or not for profit sectors.<br><br>To ensure that specialist providers do not receive more participant referrals than they can manage, an option is that specialisations be limited to smaller cohorts only. In the tender process, all providers could nominate their minimum and maximum caseload sizes to assist the Department fully understand their capacity to deliver services, and inform market share in the ESA. Care should be taken that those with multiple specialisations have appropriate market share within the ESA, particularly where there are several single specialisation providers operating (given they are not confined to the boundaries of an ESA).<br><br>The percentage of market share should also consider the impact upon employers, and the quality of services they receive. This includes larger employers who may prefer a single provider that is able to provide support across multiple locations. |

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| Is there a minimum caseload or number of commencements required for providers to be able to provide quality services and to be financially viable? | There is insufficient data available regarding indicative caseloads, and their complexity to appropriately answer this question.<br><br>Financial viability is not just a matter of caseloads. It also needs to consider the costs required to operate a business, including set up capital required, above award wages (and other benefits) to attract and retain staff; RFFR requirements; physical infrastructure and maintenance; administrative support; and meeting of other government regulatory requirements.<br><br>This is a new model, with a design and complexity of caseload that is different to current settings, and therefore represents a significant change to the business and financial models that underpin the current disability employment service system. To determine whether the model, and caseload is sound, viable and supports job seekers to secure and sustain employment it is recommended that further consultation be undertaken with the sector to test a range of payment structures and scenarios to properly understand the impact policy options could have on provider viability. This could then inform caseloads, and a payment structure that would be feasible and appropriate in terms of ensuring the financial viability of providers to deliver quality disability employment services. |