



NDS Submission

# Senate Inquiry into Disability Employment Services



National Disability Services

**September 2011**

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### **About National Disability Services**

National Disability Services is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes around 700 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.

NDS believes that the Disability Employment Services (DES) program has a key role in improving the employment rate of Australians with disability. The principal test of any policy applied to the program should be ultimately whether it will improve the employment prospects of job seekers with disability. NDS's view is that the Government's proposed tender process – which will affect the majority of DES Employment Support Services (ESS) – fails this test.

This is not an argument against mechanisms to improve the performance of the DES sector. NDS wishes to see Disability Employment Services operating at an optimal level. That means driving and supporting service development, stimulating innovation and replacing persistently poor performers.

Our view is that the proposed tender for 3 star non-remote ESS providers, although intended to improve the provision of disability employment services, will not achieve that goal. It will impose social and financial costs that outweigh any benefits. It will disrupt – and in some cases sever - the important relationship that ESS providers have with their clients and with employers. It threatens to undermine community pathways developed over years by ESS providers, pathways which are not transferable to new providers.

The tender process will impose financial costs on service providers (in preparing tenders) and divert effort away from service provision. It will exacerbate difficulties already experienced with workforce recruitment and retention by creating uncertainty for ESS staff.

We believe the Government could achieve its goal of 'testing the market' with a more limited, less disruptive tender process targeted at 1 and 2 star services. ESS providers that are performing well (3 star rated and above) should be offered an Invitation to Treat for their current business share.

The tender process is premature. Critical evaluation data for DES is not yet available. Although the scheme has been in operation since March 2010, current DEEWR data is not sufficient to form an assessment of how well the program is working compared with its predecessors - Disability Employment Network (DEN) and Vocational Rehabilitation Service (VRS). DEEWR's Interim Evaluation of DES did not have access to data on the important 26 week outcome rate of DES participants in employment.

The current performance framework for DES is imperfect. The framework focuses on the relative performance at Employment Service Area (ESA) level using complex regression techniques that introduce uncertainty into performance measurement and are not always compatible with the objects of the Disability Services Act (DSA). The performance framework for DES should be reviewed in order to align the DES contract model with the objects of the DSA.

Performance has also been impaired by the ongoing need to refine the program. Policy guidelines are often being revised. Recent examples are the changes to guidelines on Ongoing Support and excluding Eligible School Leavers from School

Based Apprenticeships. Policy refinement is required as the program matures, but frequent changes to rules are demanding on providers.

The DES program is highly prescriptive and imposes high administrative costs on service providers. Rules which impose costs and restrict flexibility (such as those which govern the frequency of face-to-face contact with clients) can also drag down performance.

DES providers have been required to do more with less. The fees paid to disability employment providers have not been indexed under the current contract or the previous contract, leading to a real reduction in funding per DES service user. At the same time DES providers are being required to assist more people with participation requirements. While the Government is working to improve the Job Capacity Assessment and referral process, NDS members continue to report inappropriate referrals.

The DES contract period is too short. A contract of longer duration would increase incentives for providers to invest in community engagement. The Government should consider a period of five years for the next DES contract.

## DES is an important part of the workforce participation agenda

Strengthening the DES program should be part of a comprehensive strategy to improve the employment rate of Australians with disability.

The employment of persons with disability is no longer purely a social policy consideration. It is also an important economic policy concern as part of the participation agenda of the Australian Government and the OECD. Increased employment of persons with disability is an opportunity to deal with the challenges of the ageing population. As the population ages, the number of persons employed as a proportion of the total population falls. The pool of taxpayers to fund the extra expenditure is declining. Without policy adjustment, rising expenditure from a declining tax base will lead to a growing fiscal deficit over time. Economists label this the 'fiscal gap'. This policy problem is put most directly in the Department of the Treasury's Intergenerational Reports (IGRs). IGR 2010 forecasts that by 2050 the fiscal gap will be 2¾% of GDP.

Disability employment programs are an important part of the policy response to this problem. The most direct way to reduce the impact of the ageing population is to increase labour force participation from those currently outside the workforce. This has three direct economic benefits:

- it reduces the cost of income support (primarily from the DSP) as pension payments are reduced as people with disability gain some employment income;
- it increases the tax base as a result of additional employment; and
- the increased employment generates increased incomes that produce flow on benefits to other sectors of the economy through natural 'multiplier' effects.

Purchasing policy decisions of Government need to be focused on empowering DES to best support this participation agenda.

## The ESS tender process will disrupt employment relationships

Applying a tender process to a large majority of current ESS contracts (over 80%) will incur costs that go beyond the cost to service providers of preparing tender documents – significant though these will be.

A distinctive feature of ESS is that providers build ongoing relationships with their clients and the businesses that employ their clients. These relationships are based on trust. These voluntary relationships require careful work to cultivate and maintain and, in many cases, cannot be transferred to new service providers. An extensive tender process will put these relationships at significant risk.

ESS providers have long invested in the development and maintenance of community referral pathways. These are relationships in the community with relevant educational institutions, employers and the families of people with disability built on trust and confidence. An employer who has taken on a client of a DES successfully is much more likely to take future clients from that same DES provider.

These pathways are reflected in the current DES program under the category of direct referrals/ registration. 'Direct registration' is provided for under clause 83 of the current Deed 'Direct Registration of Participants without a Referral'. When a person approaches a DES provider without a referral from Centrelink and is an Eligible School Leaver, a Special Class Client, a Job in Jeopardy Participant or has a valid JCA referral they are directly registered. In the ESS stream, there is significant reliance on direct registrations.

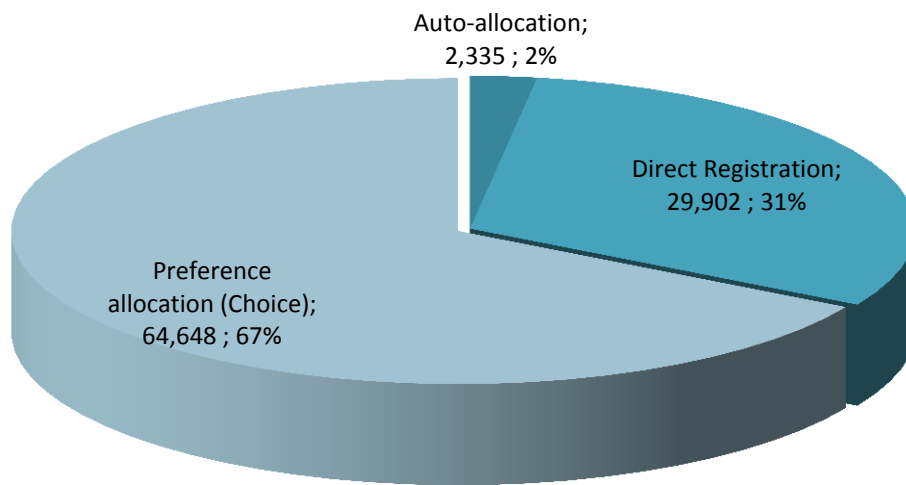
DEEWR data provided to NDS in September 2011 shows that since the start of the DES scheme, direct referrals have constituted 31% of total new registrations in ESS (see Figure 1) - a significant and growing element of the program. Directly registered clients are 'volunteers' in the strongest sense. They have no participation requirements. They have engaged with a DES provider because they trust that provider and they want to work. Such clients show the commitment that allows DES providers to best assist them to find work. The outcome rates are, in aggregate, much higher for this voluntary group than for job seekers with participation requirements (see Figure 2). If community pathways are lost through a tender process, voluntary job seekers are likely to withdraw from the labour market.

Providers of disability employment services exemplify social infrastructure investment by the third sector. As a result of investment of resources in a local community over many years, the DES builds a reputation for commitment and delivery of quality outcomes to clients. Direct registrations are the yield on this social investment. Providers who invest in this approach constitute a core component of the ESS program. The institutional 'goodwill' embodied in these community referral pathways is not transferrable to a new provider. To the extent that such a provider (at site or contract level) is likely to lose viability through a competitive tendering arrangement, there will be less incentive to invest in these informal pathways which can take many years to establish.

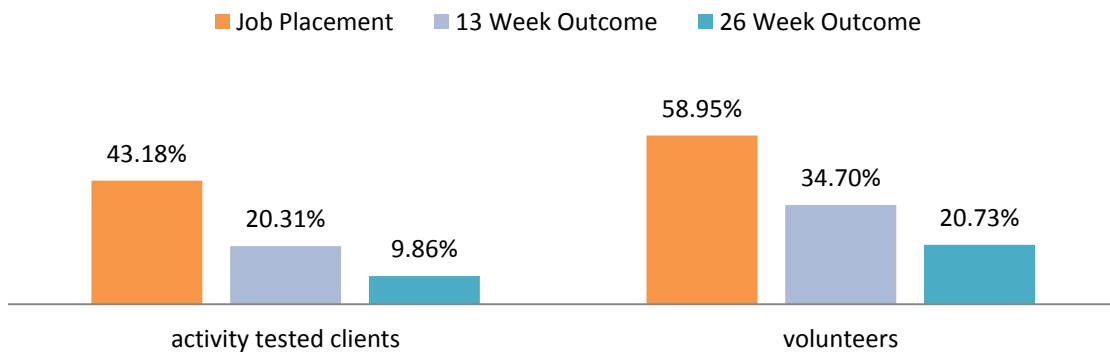
**Recommendation**

The Government should offer ESS providers which are performing at 3 stars and above an Invitation to Treat for their current business share.

**Figure 1: ESS Referrals from 1/3/2010 to 31/8/2011**



**Figure 2: Employment outcomes for ESS DES clients by participation requirements**



## The evaluation of DES is incomplete

DEEWR has produced an Interim Evaluation of DES (released in July 2011). A further evaluation of the program is due to be completed in financial year 2012–13.

The Interim Evaluation finds that DES is already performing better than its predecessors, Disability Employment Network (DEN) and Vocational Rehabilitation Service (VRS) and highlights three achievements:

### 1. Improved access

More job seekers with disability are receiving employment assistance through the changes introduced in DES. The Interim Evaluation notes that each month around 8,000 new participants commence in DES compared with an average of 7,000 commencements per month in DEN/VRS in 2009.

Relatively more of the target population are using disability employment services. Participation in services had levelled out under the capped programs but increased from 7.7% of target population just prior to DES to 8.8% by December 2010.

### 2. Ongoing Support

Ongoing Support is well-accepted by DES providers and participants. Seventy-nine per cent of participants expressed satisfaction with their experience of Ongoing Support and 72% who recalled having an Ongoing Support Assessment were satisfied with the outcome.

### 3. More sustainable jobs

DEEWR claims that early indications are that DES is on track to achieve its key objective of more sustainable employment for participants. While relatively fewer of the DES cohort measured obtained a job in comparison with the DEN/VRS cohort (24.3% versus 27.9% respectively), more of the placed DES participants went on to achieve a 13 Week Outcome (57.4% compared with 50.5% of DEN/VRS participants). A higher rate of conversion to outcome was observed among Disability Management Services and at both funding levels of the Employment Support Services (62.0%).

Importantly, the introduction of the uncapped DES program in March 2010 required a period of temporary adjustment by providers. While the impact was uneven across the sector, some DES providers experienced a sudden increase in numbers and a pronounced shift in the profile of their clientele (for example a proportionate rise in the number of job seekers with psycho-social and decline in clients with intellectual disabilities). Adjusting to new rules, a higher caseload and a changed profile of clients adversely affected the performance of some providers.

The primary measure of effectiveness adopted in the Interim Evaluation is to track actual people through the DES program: a cohort approach. The Interim Evaluation describes the method in the following way:



The comparison of outcomes ... is based on participants who commenced in DES between 1 March and 30 June, counting outcomes achieved by 31 December 2010 (six to nine months depending on when a participant commenced). Similarly, outcomes for DEN/VRS participants who commenced in services between 1 March and 30 June 2009 were counted to 31 December 2009.

This method has the advantage of being able to produce a conversion rate: the proportion of those commenced who keep a job after a placement. The conversion rate has increased moderately at the 13 week outcome stage.

However, the key measure of the success of the program in terms of sustainable job placement is the 26 week outcome rate. Curtailing the tracking at December 2010 meant that 26 week outcomes were not recorded. This limits the evaluation of the program.

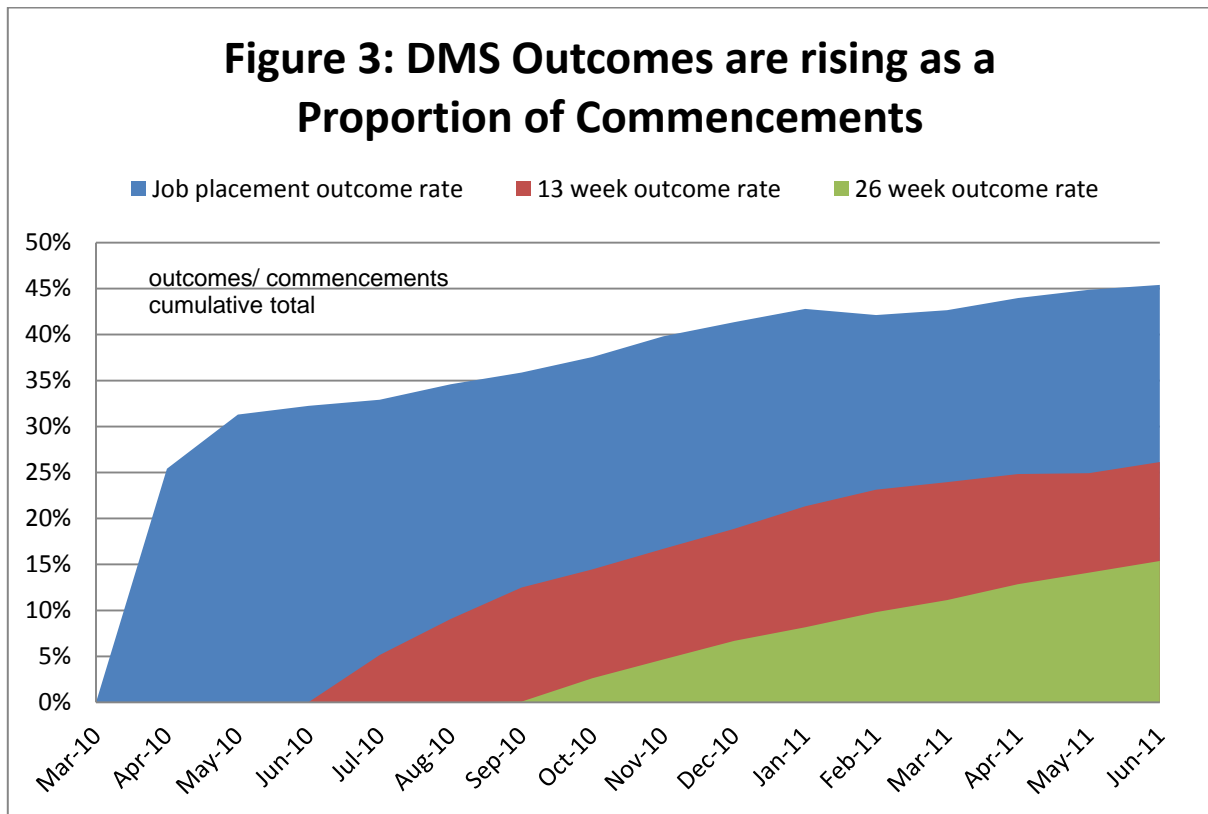
NDS analysis of DEEWR data shows that DES performance is trending up. The approach we have taken is to examine the cumulative rate of outcomes as a proportion of commencements for Job Placement, 13 and 26 Week Employment Outcomes relative to similar measures just before the start of the new scheme. The results are shown in Figures 3-5. During the period March 2010 to June 2011, DES Job Placements had risen to 48% (relative to 33% in DEN/VRS), 13 Week Outcomes had risen to 28% (relative to 26% for DEN/VRS). The 26 Week Outcome rate sits at 16% (relative to 20% in DEN/VRS), but it is rising.

The DES program is still relatively new and required significant adjustment from service providers. Overall, the program seems to be performing reasonably well, but the data on the important 26 week outcome rate is immature. Given these factors, a tender process that includes the majority of ESS providers is premature.

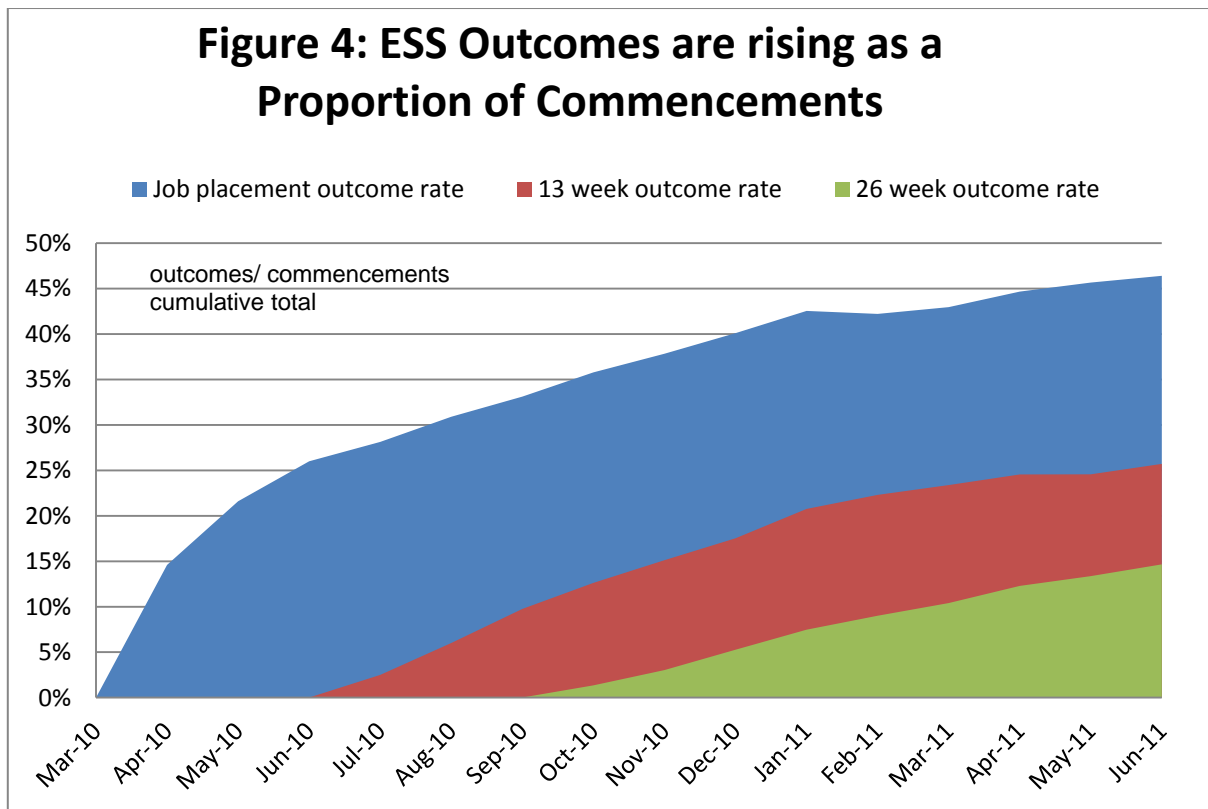
### ***Recommendation***

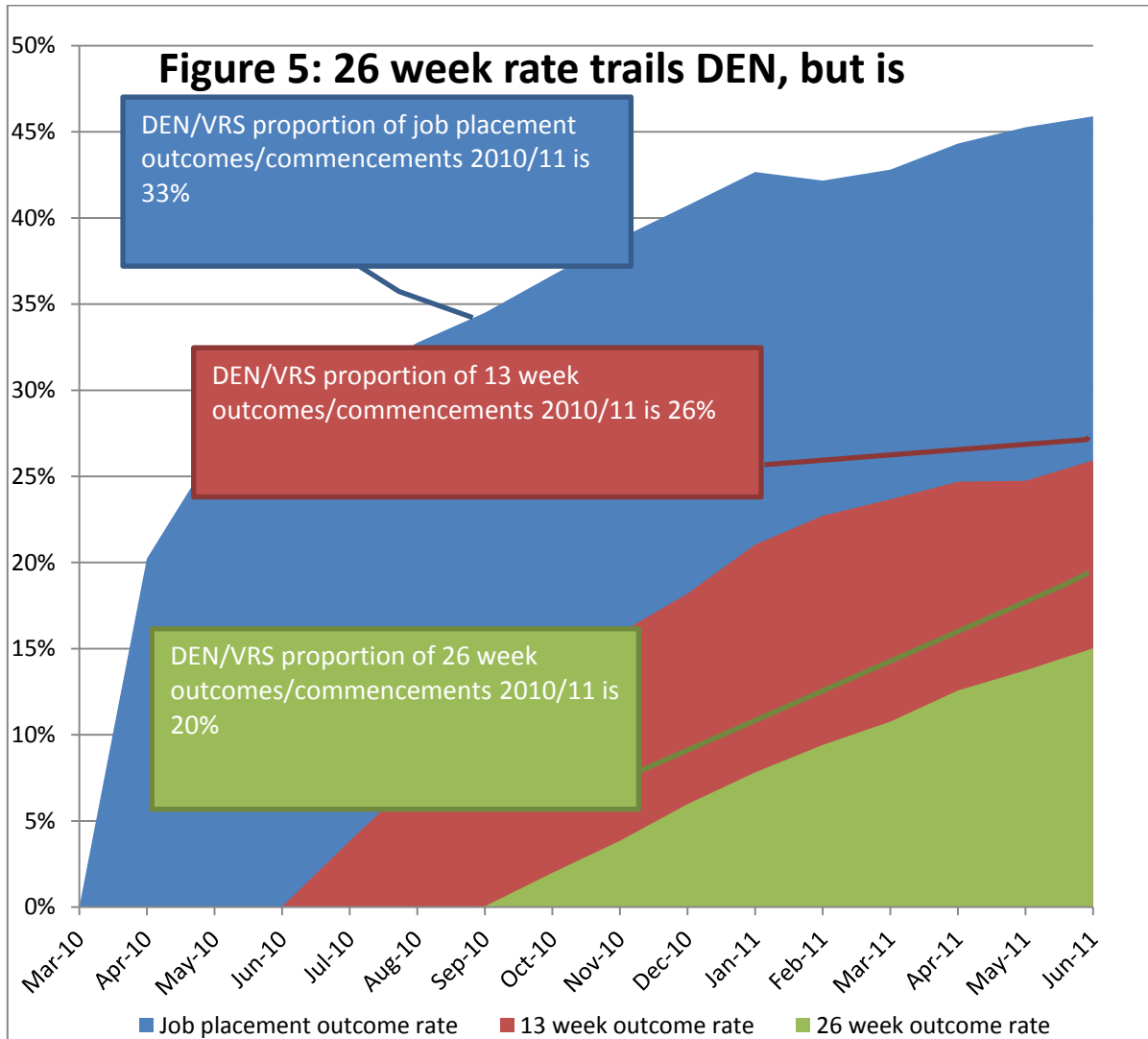
The Government should update the Interim Evaluation to take account of 26 week outcome data.

**Figure 3: DMS Outcomes are rising as a Proportion of Commencements**



**Figure 4: ESS Outcomes are rising as a Proportion of Commencements**





## The program is compliance-focussed rather than person-centred

The terms of reference of this Inquiry raise the question of the appropriateness of the DES performance framework and whether it is consistent with the Objects of the Disability Services Act. The Objects of the Act are as follows:

### Objects of the Disability Services Act (1986)

Section 3 (1) The objects of this Act are:

- (a) to replace provisions of the *Handicapped Persons Assistance Act 1974*, and of Part VIII of the *Social Security Act 1947*, with provisions that are more flexible and more responsive to the needs and aspirations of persons with disabilities;
- (b) to assist persons with disabilities to receive services necessary to enable them to work towards full participation as members of the community;
- (c) to promote services provided to persons with disabilities that:
  - (i) assist persons with disabilities to integrate in the community, and complement services available generally to persons in the community;
  - (ii) assist persons with disabilities to achieve positive outcomes, such as increased independence, employment opportunities and integration in the community; and
  - (iii) are provided in ways that promote in the community a positive image of persons with disabilities and enhance their self-esteem;
- (d) to ensure that the outcomes achieved by persons with disabilities by the provision of services for them are taken into account in the granting of financial assistance for the provision of such services;
- (e) to encourage innovation in the provision of services for persons with disabilities; and
- (f) to assist in achieving positive outcomes, such as increased independence, employment opportunities and integration in the community, for persons with disabilities who are of working age by the provision of comprehensive rehabilitation services.

The task of finding meaningful work for people with disability requires creative, flexible and innovative approaches. Increasingly it is being recognised that best practice in disability service provision requires a person-centred flexible approach that enables service providers to respond to the diversity of individuals and their needs. At their best, service providers will do whatever it takes (within the bounds of ethics, the law and the Disability Service Standards) to achieve good outcomes for their clients. Employment programs should be no different. Yet an international review of employment programs said of Australia: “despite a change in the employment services system in Australia, the compliance-centred regime persists, and this works against the development of personalised approaches to assisting job

seekers ... a tightly controlled contractual regime persists, which affects the degree to which services can be individualised.”<sup>1</sup>

The DES program is bound by complex prescriptive rules. These rules limit the flexibility and imagination of service providers and divert their energy from direct service provision. The compliance-focus affects the workforce profile. Those who are attracted to disability work because of the values of social inclusion, empowerment and choice that underpin the Disability Service Standards, can become frustrated with a program built around such detailed business rules.

NOUS Consulting was commissioned by Disability Employment Australia to provide an assessment of DES in April 2011.<sup>2</sup> The most striking conclusion is that \$46.2m of program funding is wasted, excluding associated administrative expenses in DEEWR. This includes:

- project administration - close to 30% of DES administration time (or 12.5% of overall time) is spent on unnecessary administration, unsuitable processes and duplicated effort between Centrelink, Job Capacity Assessment providers and DES providers. The cost of this process inefficiency is \$31.4m annually.
- contract management - dedicated DES staff are employed to manage contract and ESS IT compliance. The cost is \$15m annually.
- DES provider registration - the lengthy process of registering participants with a DES provider reduces participants' motivation to attain employment. Registration takes, on average, nineteen working days from Centrelink referral to commencement on caseload. The process can take approximately three-quarters of a day of an advisers' time and costs \$10.02m per year

NDS endorses the approach articulated by Peter Shergold, the former Secretary of PM&C: “If the Commonwealth Government is paying providers on the basis of outcomes (essentially, success in placing people into work) then there is little justification for prescriptively determined micromanagement by bureaucrats. All that is required is for public servants to ensure that the conduct of outsourced providers is ethical and that their aggregated expenditure is publicly accountable.”

Some of the rules that apply fail to reflect the differences between DES and Job Services Australia (JSA). DES providers often need to do more than match job seekers with available positions. They need to work with employers to customise jobs to fit the particular skills, aspirations and restrictions of a worker with disability. Disability employment service providers need flexibility and creativity to be able to achieve and sustain quality employment outcomes for the employee and employer. At points, the DES performance framework is in tension with this approach.

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<sup>1</sup> Institute for Public Policy, 'Now it's personal: Learning from welfare-to-work approaches around the world', UK, 2010

<sup>2</sup> Efficiency Assessment of the new Disability Employment Services (DES) Disability Employment Australia trading as ACE National Network Inc. April 2011

## The performance framework is flawed

The performance framework is very complex. Providers in a geographical area are compared in relation to a weighted set of KPIs. The measured outcomes are compared to the mean and the variance from that mean is characterised in a star rating, with 3 stars constituting the average performance. The model is a variant of the star rating system for JSA. It is a system of relative performance measurement. Qualitative outcomes are not directly measured. The Government uses this system to inform purchasing decisions and business re-allocation, consequently it markedly influences the employment, investment, innovation and service delivery approaches of providers.

NDS believes it is appropriate for Government to apply a performance framework to the overall management of the DES program; however the current framework has flaws and should be reviewed. There are four key areas of concern:

- lack of transparency in the regression analysis;
- relative performance measurement fails to benchmark performance against best practice;
- the system involves perverse incentives; and
- it doesn't allow providers enough scope to use their skills to achieve the high quality outcomes for people with disability.

### The regression analysis is not transparent

In the development of the performance management system, DEEWR sought the advice of the South Australian Centre for Economic Studies (SACES) and Access Economics (now Deloitte Access) to develop a model of measuring expected performance using regression-based techniques. The advice recommended adoption of probit/logit based regression models which are the usual statistical method employed with binary variables: a yes or no response to whether a stated employment outcome has been achieved. The statistical method recommended was to measure the outcome achieved at site level by a provider as a proportion of the expected outcomes that are predicted by a formula. This formula is derived from variables that best fit the overall data after allowing for different locations and client sets. This ratio is the 'provider effect'. This so called 'provider effect' seeks to remove factors outside the control of the provider from the performance measurement. It should be noted that this so called 'provider effect' is a remainder variable: capturing not just the performance of the provider, but also capturing all factors that are not explained by the underlying regressions. Given that the 'goodness of fit' for each KPI (the capacity of the regression to explain the variation in measured data) is highly variable and sometimes quite low, the unexplained elements of the data set captured in the so called 'provider effect' can be very significant. In short, the measured performance can embody a significant amount of 'statistical noise' which is likely to have little to do with actual performance in any particular case.

Measuring expected outcomes at ESA level is problematic. The work of Access and SACES recommends an estimation technique using site level data - not ESA level data as used in the current performance framework. Extrapolation of the expected outcomes from site to ESA level is not simply a matter of aggregation as the significance of explanatory variables can vary widely within an ESA. Some ESAs are very large and involve diverse labour market conditions. So it could be argued that the model in force has not been subject to sophisticated statistical testing - at least not to testing that is public. As part of a review of the performance methodology, the statistical case for the use of regressions at ESA level should be tested and made publically available.

The regression process is not transparent. DEEWR does not disclose the independent variables used in the regressions, the associated correlation coefficients and measures of 'goodness of fit'. DEEWR may be concerned that full disclosure of the regressions opens up opportunities for 'gaming' outcomes. However, any risk of 'gaming' needs to be weighed against the confidence in the performance measurement framework that a transparent modelling approach would help build.

NDS members identify that this complex system makes performance measurement unpredictable. The methodology is highly sensitive to relatively minor changes at the local level. A small number of outcomes can change the measured performance dramatically, especially at small sites. Changes in performance ratings can flow from minor events where one or two clients fail to achieve a 13 or 26 week outcome, possibly by a matter of one or two weeks. Sites which seem to be performing at a very similar level receive different star ratings. This unpredictability (and mystery about the performance methodology) reduces the capacity of management to plan, improve and manage resource allocation. For these reasons, the results of the star ratings are described by some as a lottery.

### **Relative performance may not be better for service users**

Equating performance with relative performance is also problematic. What is measured is not the outcome from the perspective of the client, but how many outcomes a provider gets relative to other providers. Performance is effectively the capacity to beat the mean. For a provider to 'succeed' and beat the mean, another provider must 'fail' and slip back from the mean or the mean must fall. Neither of these outcomes implies that the system as a whole is performing any better.

The problem has been articulated by Dr Geoff Waghorn. He argues that the system of relative performance measurement:

... allows all services to drift towards low outcomes, while maintaining their relative performance, and hence their star rating.<sup>3</sup>

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<sup>3</sup> Presentation to the Australian Government's Parliamentary Inquiry into Mental Health and Workforce Participation, 9 August 2011, Geoff Waghorn, School of Population Health, University of Queensland.

NDS would not characterise the current performance framework as encouraging 'a race towards the bottom', but accepts the broad point that the system does not recognise and reward any overall increase in performance by the sector.

An alternative performance measurement framework could be based on industry best practice rather than just variance from the mean. Such an approach is alluded to by Waghorn. He proposes that the star rating system should be anchored to internationally recognised indices of service quality.

This would then enable all services to achieve five star ratings on objective indicators, without limiting their success to one tail of a normal distribution.<sup>4</sup>

Waghorn claims this approach would have the benefit of encouraging sharing of best practice information without the success of one organisation being at the expense of another. NDS believes this approach is worthy of further consideration.

### **The framework places little weight on the quality of employment outcomes**

The performance measurement system provides an incentive structure which places great weight on achievement of employment outcomes. This is not necessarily aligned with the objective of providing sustainable high-quality outcomes. The heavily output-based KPIs can create conflicting objectives for DES providers: the quality outcomes envisioned by the DSA and the need for sustained quantitative outcomes.

One way to deal with this potential conflict is to include further measures of service quality in the KPIs. The performance measurement framework currently focuses on quantitative employment outcomes. KPI 3 of the framework relates to quality of employment outcomes. It focuses on certification of a DES under the Disability Employment Standards and the requirement of a DES provider to act with due care and diligence to ensure that participants receive services for which the provider is receiving payment. While such approaches are reasonable and supported by NDS, they do not form part of the numerical calculation of star rating performance. The quality of employment outcomes, therefore, will not have much bearing on whether an ESS provider will be required to tender, rather than being offered current market share under an Invitation to Treat.

Introducing quality based KPIs – such as the KPIs relating to wages and hours that existed under the DEN framework - would help to compensate for the heavy emphasis on quantitative performance measurement in the DES performance framework.

A performance framework should not exist in isolation. It should be complemented by access to expert advice and assistance about how to lift the performance of DES. This advice and assistance needs to be underpinned by investment in research and the encouragement of innovation to develop a body of sound knowledge about good

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<sup>4</sup> Ibid.



service practice. The KPMG workshops sponsored by DEEWR over recent months have drawn a high level of interest from DES providers. A systematic larger program aimed at building the capability of the sector would be a worthwhile investment by government.

***Recommendation***

The Government should review the performance framework for DES and invest in a program to research and build sector capability.

## DES providers are required to do more with less

### Reduced real funding

Access to Disability Employment Services has increased over recent years, particularly following the uncapping of the program, but funding per service user is falling. In the five years to 2008-09 real funding per disability open employment service user fell from \$4,108 to \$3,621.<sup>5</sup> The 2011-12 Budget includes growth funding, but appears to freeze service and outcome fees until 30 June 2015. Using Treasury price forecasts, this is a real reduction in prices of 12.3% when wages costs are expected to rise 5% in real terms over this period.

### Higher caseload

Adding to the increased caseload under DES shown in the Interim Evaluation, the Government is introducing changes to Disability Support Pension, which are likely to increase demand for DES services from people with participation requirements.

Under changes implemented on 3 September 2011, DSP applicants with an assessed work capacity of 8 hours per week or more must test their work capacity in a 'program of support' before a DSP application is progressed. This will increase the inflow of job seekers to DES, some of whom will wish to demonstrate their incapacity to work in order to be eligible for DSP. This will add difficulty to the work of DES.

Based on initial testing, changes to the Disability Impairment Tables (to be implemented on 1 January 2012) are also likely to see fewer people qualifying for DSP and more people with disability and participation requirements accessing DES.

The Government is tendering ESS services while, at the same time, implementing legislative changes that will increase the workload and reducing real funding per service user. Government is demanding much of the sector. While NDS is committed to working with Government on advancing the workforce participation agenda for people with disability, it would prefer that major decisions on purchasing be deferred until the impact of the changes to DSP eligibility take effect and the impact on providers be assessed.

### **Recommendation**

The Government should index service fees and outcome payments under the next contract for DES and reduce the high compliance burden of the current DES program.

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<sup>5</sup> Steering Committee for the Review of Government Service Provision, *Report on Government Services 2011*

## A longer contract is needed

Two to three year contract terms effectively mean that by the time providers have the relevant management and staffing structures in place to maximise performance a new contract model is introduced. Frequent change creates instability which is not consistent with providing certainty and stability that people with disability and employers require. A five year contract term is more appropriate.

### ***Recommendation***

The Government should introduce a longer period for the next DES contract.



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