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The Committee Secretary
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Dr Ann Nevile

Senior Lecturer and Director
Social Policy Action Research Centre
Crawford School of Economics & Government
The Australian National University

www.crawford.anu.edu.au/staff/anevile.php

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In making a submission to the Senate Education, Employment and Workplace Relations Committee inquiry into the administration and purchasing of Disability Employment Services (DES) in Australia, my remarks are based on evidence generated as part of an ARC funded Linkage project (LP099053) which involved one-on-one and focus group discussions with 73 job seekers and 124 staff (12 CEOs, 58 Senior Managers and 67 frontline staff) in 27 DES agencies across all States and Territories, except the Northern Territory. A full report can be downloaded from http://www.crawford.anu.edu.au/sparc/pdf/2011/20110621_final_report.pdf
Hard copies are also available on request.

My comments are confined to the first four terms of reference. That is:

- (a) the impact of tendering more than 80 per cent of the current DES on clients with disability and employers supported under current contracts;
- (b) the potential impact of losing experienced staff;
- (c) whether competitive tendering of more than 80 per cent of the market is the most effective way of testing the market, allowing new players into the market and removing poor performers from the market; and
- (d) whether the DES Performance Framework provides the best means of assessing a provider's ability to deliver services which meet the stated objectives of the *Disability Services Act* 1986 such as enabling services that are flexible and responsive to the needs and aspirations of people with disability and encourage innovation in the provision of such services.

On the basis of evidence collected as part of the Linkage project, I do not support the government's decision to tender more than 80 per cent of the current DES because this action will not facilitate achievement of DES policy objectives. My reasons for this statement are set out in the attached submission.

I am happy to expand on any of the material in the submission of the Committee feels this would be helpful.

Yours sincerely

Dr Ann Nevile
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Submission to the Senate Education,
Employment and Workplace Relations
Committee inquiry into the administration
and purchasing of Disability Employment
Services in Australia

Dr Ann Nevile
Director
Social Policy Action Research Centre
Crawford School of Economics and Government
The Australian National University

(a) Impact on DES clients and employers

Developing and maintaining relationships is vital to how DES staff operate. Unlike mainstream employment services, DES staff not only assist job seekers with disability find employment, but also help successful job seekers maintain their employment, which for some clients may be throughout their whole working life. Consequently, process driven interactions which may be effective in mainstream employment services are not effective in the disability employment sector. For example, when a new case manager with a good track record in mainstream employment services - lots of placements – came to work in a DES agency,

every client complained about this new case manager. Someone cornered me in the kitchen saying, “how do I get away from this person?” “Why?” “I’ve seen her three times and she hasn’t once asked me how I am” (EC focus group, metropolitan agency, cited in Nevile & Lohmann,2011:38).

While DES clients expect and value highly being treated as an individual, there was a very strong sense among staff working in the sector that it is becoming increasingly difficult to spend time with job seekers, getting to know them as individuals.

We used to be able to get to know our clients on a different level. Now they are just – and it is horrible to have to say – but they are just like cows that are waiting – “next”, “next”. You don’t have time to get to know them and what motivates them (EC, regional agency, cited in Nevile & Lohman,2011:43).

Staff were also very much aware that contract requirements and the threat of being forced to tender was driving this change in work practices.

When I first started it was acceptable to spend time with people, whereas [now] to survive, there’s a feeling that you have to actually just deal with as many people as you can as fast as you can... That’s what it is all about, placements. It’s all about money (EC, metropolitan Agency, cited in Nevile & Lohmann,2011:30).

Under current arrangements there is a financial incentive for mainstream employment service providers to transfer Stream 4 clients with multiple barriers to DES agencies. The fact that such transfers occurs just before review periods leads DES staff to speculate that this gaming behaviour is in fact occurring.

So we have got clients who are pushed out of other services...just before their review at 26 weeks...Other services recognise that they are not going to get an outcome from them, so they move them on (EC, outer metropolitan agency, cited in Nevile & Lohmann,2011:28).

Tendering more than 80 per cent of the current DES will introduce incentives for gaming behaviour such as creaming and parking on the part of DES agencies and will introduce a high level of uncertainty into the sector. Both of these outcomes will damage the ability of DES agencies to establish and maintain effective relationships with DES clients.

As noted earlier, DES agencies assist clients sustain employment outcomes. To do this staff need to develop and maintain good relationships with employers as well as clients. DES staff and job seekers noted that there is still a reluctance within the community to employ a person with disability. Consequently DES staff have to work hard to cultivate and maintain relationships with local employers. ***Tendering more than 80 per cent of the current DES will damage the social networks built up over many years as agencies will not be able to assure employers that they will be there when needed to help resolve issues which may arise for DES clients before normal work patterns are disrupted.***

(b) Potential impact of losing experienced staff

The DES is already losing experienced staff. These very experienced staff “are not moving between providers, they are going to work for more welfare-based socially holistic organisations...[and] are not going to come back” (Senior manager, metropolitan agency, cited in Nevile & Lohmann,2011:38-39). The sector is also experiencing a high turn over (in some cases up to 60 per cent) of front line staff - staff working as employment consultants or providing post-placement support. High case loads, the pressure to find work for clients who are not job ready, complex tender requirements, constantly changing guidelines, and a heavy administration and compliance load means that staff who have been working in direct support roles for more than 12 months are considered “veterans” (Nevile & Lohmann,2011:39).

Tendering more than 80 per cent of the current DES will exacerbate these existing pressures, making it even harder for agencies to retain experienced staff and fill vacancies.

Since this new contract we've had a number of people leave and just terrible experience with recruitment rounds – people staying for a day and then not coming back (CEO, specialist mental health agency, cited in Nevile & Lohmann,2011:39).

(c) Testing the market and allowing new players to enter the market

Based on evidence from other parts of the social welfare sector where competitive tendering has been operating for a number of years, tendering more than 80 per cent of the current DES is likely to lead to a loss of diversity with the sector as small (often local) agencies which do not have the necessary resources to participate in a time and resource intensive tender process go out of business or merge with larger

organisations (see Nevile,1999). *Therefore tendering more than 80 per cent of the current DES is unlikely to achieve the government's objectives of testing the market or allowing new players to enter the market.*

(c) Removing poor performers from the market

All DES agencies are currently required to meet National Disability Standards and are audited against these standards. Furthermore, a National Quality Framework for Disability Services, part of which involves quality requirements applicable across the whole country is being developed. *It is more effective to use nationally agreed standards to determine performance levels than a competitive tender process the results of which are influenced by considerations other than quality as defined by the National Disability Standards.* This point is discussed in more detail in section (d) below.

(d) Whether the DES Performance Framework provides the best means of assessing a provider's ability to deliver services which meet the stated objectives of the Disability Services Act 1986

Our research revealed a clear tension between the performance framework currently operating in the disability employment sector and the *Disability Services Act* which means that DES staff “are caught between the very prescriptive contract and the Service Standards which expect you to go beyond what the contract is asking you to do” (Senior Manager, specialist ID agency, cited in Nevile & Lohmann,2011:48).

The most fundamental conflict identified by staff relates to client choice. Under the National Standards, each person with disability must be given the opportunity to make decisions and choices and their right to exercise control over their life should not be restricted by the policies and procedures of the agency responsible for service delivery (Disability Standards Working Party,1993:11). However, under the current contract, agencies are forced to restrict client choice in order to claim outcome payments. For example, agencies not allowed to accumulate periods of employment in different work places in order to claim the 26 week outcome payment. Consequently,

[t]here are occasions where we would love to put someone in another job, so we have this big debate about whether we move this person across, or do we keep them where they are because we need to get the 26 week outcome. It becomes an ethical dilemma. It really does (Senior Manager, specialist ID agency, cited in Nevile & Lohmann,2011:50).

In the lead up to the introduction of the new contract, the government promised a reduction in the administrative burden placed on service providers so that they can devote more resources to assisting job seekers find and maintain a job. The government also stated that a feature of the new contract will be “its flexible approach so Disability Employment Service Providers can deliver a mix of interventions to address both vocational and non-vocational barriers” (Australian Government,nd). DES staff welcomed the promise of less red tape but more than six months into the new contract felt that the government had failed to deliver on its promises. They found that administration had increased, not decreased, and the new contract was more prescriptive and inflexible, not less, to the extent that it compromised their capacity to deliver a flexible, individualised service (Nevile & Lohmann,2011:40).

DES staff also felt that the prescriptive nature of the current contract restricts their ability to develop innovative responses to client needs. As one Manager put it, “innovation often means finding ways around prescriptive and inflexible guidelines” (Manager, regional agency, cited in Nevile & Lohmann,2011:47). Where agencies were introducing new methods of working with clients or providing new services, these initiatives were not supported by government funding (Nevile & Lohmann,2011:47). The experience of DES agencies is consistent with international experience. In the UK, for example, organisations that deliver mainstream social services funded through social service departments of local authorities can survive and grow, but innovation is difficult, if not impossible. As a Senior Manager in an agency providing housing and support services in the north of England explained, the organisation had to turn to private sector philanthropy funding when it wanted to develop innovative services that addressed the gaps in services funded by the local authority.

For example, we have a service which accommodates black and Asian women fleeing violence. They bring their children and there is no provision in the statutory body for the welfare of those children. But those children come to us very damaged...and so we deemed we needed a specialist child worker and also a therapist. And those funds have to come from elsewhere (Nevile,2010:538).

In its 2010 report, *Contribution of the Not-for-Profit Sector*, the Productivity Commission noted that purchase of service contracting is most applicable to the delivery of relatively standardised services. Where flexible and responsive services are desirable the costs of market-based approaches may outweigh the benefits

(Productivity Commission,2010:325). When choosing between alternative models of engagement, the Productivity Commission recommended that “governments should consider the nature of the outcomes sought, the characteristics of clients and the nature of the market...[and] there should be no presumption that purchase of service contracting will always be the most appropriate model” (Productivity Commission,2010:346). In outlining an alternative vision for employment services in Australia, Lisa Fowkes, former Chief Executive of Job Futures, noted that

[t]he delivery of effective assistance to unemployed people requires a pool of highly skilled and knowledgeable staff. We need diverse providers and innovative approaches. The current contracting arrangements [in mainstream employment services] have delivered risk averse, homogenous approaches (Fowkes,2011:17).

The aim of the Disability Employment Service is to increase the employment participation of job seekers with disability and as such “is central to achieving the aims of the Government’s Social Inclusion Agenda” (Australian Government,2010:9). When the Minister for Employment Participation and Child Care asked the Australian Social Inclusion Board how employment services could be enhanced to assist the most disadvantaged job seekers, the Board identified the culture of Job Services Australia (mainstream employment services) as a barrier to the workforce participation of many disadvantaged job seekers.

[T]he duplication of processes, red tape, lack of personalization within the system, and the absence of empathetic approaches, presents a real challenge for many job seekers facing social exclusion (ASIB,2011:9).

Making the Disability Employment Service even more like mainstream employment services by tendering more than 80 per cent of the current DES will not increase the ability of agencies to deliver flexible, responsive and innovative services, nor will it assist agencies meet all of the government’s aims for what is a complex, but extremely important service.

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