"It is like they just don't trust us":
Balancing trust and control in the provision of disability employment services

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Contents

Acknowledgements

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Acronyms

AAAP	Australian Apprentice Access Program
ABS	Australian Bureau of Statistics
ADHC	Aging, Disability and Home Care
ACCI	Australian Chamber of Commerce and Industry
APM	Active Participation Model
ARIA+	Accessibility/Remoteness Index of Australia
CALD	Culturally and Linguistically Diverse
CBF	Case Based Funding
CDEP	Community Development Employment Projects
CWC	Community Work Coordinators
CSTDA	Commonwealth State/Territory Disability Agreement
DAAWS	Disabled Australian Apprentice Wage Support
DEEWR	Department of Education, Employment and Workplace Relations
DEWR	Department of Employment and Workplace Relations (former name)
DEN	Disability Employment Network
DES	Disability Employment Service(s)
DMI	Disability Maintenance Instrument
DPI	Disability Pre-employment Instrument
DSP	Disability Support Pension
DSS	Disability Services Standards
EA3000	reporting and management software
EAF	Employment Assistance Fund
EIS	Employer Incentives Scheme
ESA	Employment Service Areas
ESC	Employment Services Contract
EPF	Employment Pathway Fund
EPP	Employment Pathway Plan
ESP	Employability Skills Profiler
ESS	reporting and management software which replaced EA 3000
IEP	Indigenous Employment Program
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
ISCA	Intensive Support Customised Assistance
JCA	Job Capacity Assessment or Job Capacity Assessor
JPET	Job Placement, Employment and Training
JPLO	Job Placement Licensed Organisations
JSA	Job Services Australia
JSCI	Job Seeker Classification Instrument
JSSO	Job Search Support Only
JSKA	Job Seeker Account
KPI	Key Performance Indicator
NDRC	National Disability Recruitment Coordinator
NEIS	New Enterprise Incentive Scheme
NESA	National Employment Services Association
OECD	Organisation for Economic Cooperation and Development
PAGES	Provider of Australian Government Employment Services
PR	Participation Reports
PSP	Personal Support Program

SSA	Specialist Services Application (ie EA3000)
SWS	Supported Wage System
TTW	Transition To Work
VRS	Vocational Rehabilitation Services
WfD	Work for the Dole
WMS	Workplace Modifications Scheme
WSS	Wage Subsidy Scheme

Executive Summary

This research project provides an independent mid-term review of the new contracting arrangements introduced on 1 March 2010. In doing so, it takes up the question as to whether closer alignment to the funding arrangements used in mainstream employment services where design principles broadly derive from agency theory, allows disability employment service providers to meet the government's goal of "effective…tailored services that are flexible and responsive" (Australian Government,nd).

The history of government funding of social welfare services in Australia is one of increasing government control over what services are delivered and how they are delivered (see Lyons,1995:18-22). However, as funding models move from the traditional grant model where governments provided funds to particular organisations to support the work of the organisation as a whole, to contractual models where governments fund specific programs, the tension between the need to be accountable for the expenditure of taxpayers' money and the need to provide a funding environment that does not stifle innovation and allows for a flexible response to individual need remains.

The Department of Education Employment and Workplace relations assumed responsibility for disability employment services in October 2004. In 2008 it undertook a review of disability employment services and issued two discussion papers. Responses to these papers provided baseline data identifying concerns of the sector prior to the introduction of the new contract on 1 March 2010. Data used in this study was collected between October and December 2010 through one-on-one interviews or small focus groups with 124 staff and 73 job seekers from 27 DES agencies in every State and the Australian Capital Territory.

When the concerns identified during the public consultation process in the lead up to the introduction of the new Disability Employment Service are compared to the situation nine months into the new contract, it is striking how, with the exception of the uncapping of the program, none of the issues identified by the sector have been resolved. Administration and red tape have not decreased, the new operating system

which replaced EA3000 is not easier to use and is equally unsuited to disability employment. The prescriptive nature of the contract remains as DEEWR continues to regulate how service provider agencies achieve outcomes. At the same time, the government has placed greater financial risk on service providers exacerbating tensions which already existed prior to 1 March 2010 between providers' contractual obligations under the Deed and their obligations under the Disability Service Standards. Consequently agency capacity to provide flexible, individualised and innovative services has decreased. Given the "extensive consultation process" which preceded the introduction of the new contract, the obvious question is why did the new contract fail to address the issues identified by the sector during the consultation process?

One explanation is that the design of the program was carried out by people who did not have 20 plus years of direct service delivery. While representatives of peak bodies were included in the design phase they were not allowed to consult with their members. Several other factors are also important.

- The power imbalance inherent in the purchaser-provider relationship.
- Lack of financial compensation for the increase in financial risk for agencies because of the move to a "demand based" system.
- The prescriptive and inflexible terms of the contract and differences in thinking about performance management including the emphasis placed on "hard" outcomes such as 26 week employment as opposed to "soft" outcomes such as improved self-confidence or self-esteem, which may be important precursors to successful employment.

However, alternatives models are available. For example, Charles Sabel (2004) argues that the tension between accountability goals and optimal outcomes for all clients disappears if the direction and substance of the exchange between purchasers and providers is reversed. Under a hierarchical, principal/agent model, accountability means reporting on and compliance with benchmarks, rules or standards imposed on the agent by the principal. Under Sabel's approach, monitoring is continuous and less concerned with outcome measures than with diagnostic information. That is, information that tells the service delivery agency and the funding agency what needs to be changed. Continuous improvement is the goal, and the response of the funding

agency to information that suggests change is necessary is increased assistance to enhance the capacity of the service delivery organisation. Punishment (withdrawal of funding) only occurs after a service delivery organisation repeatedly fails to use the additional assistance provided by the funding agency to make the necessary changes. This approach to monitoring provides a much better fit between the motivators used by those purchasing the service and the motivations of service providers.

Seeking feedback from service users and service providers is the start of Sabel's experimentalist or pragmatic approach. DEEWR already does this. What is needed is to move beyond merely seeking feedback to using that feedback to adjust corrigible performance measures or benchmarks. Governments may feel insecure and exposed to unnecessary risks under such a system, but may come to embrace it once they realise that a steady stream of diagnostic information is, in effect, an early warning system that allows for publicly defensible corrective action to be taken before stories of administration failure appear on the front pages of national newspapers.

Principal Recommendation

That DEEWR and the sector together develop a set of performance management tools that meet the government's goal of managing political risk as well as providing an enabling environment for innovative, flexible and individualised service delivery.

Additional recommendations

The employment search/consolidation model that underpins current agency contractual arrangements assumes job seekers are on a linear path where barriers to employment are progressively and permanently overcome. This linear path may fit some job seekers (for example, those with a physical disability whose barriers to employment can be overcome by modification of the work site), but does not fit job seekers whose experience is more episodic than linear. While an alternative performance management model is being developed, a number of other changes should be made to the payment structure (Recommendations 1-3) and to administrative arrangements (Recommendations 4-10) which will reduce the administrative burden on service providers and make it easier for service providers to deliver a flexible, individualised service.

Recommendation 1: Rebalance service fees and outcome payments

A rebalancing of the money provided to agencies as up-front service fees and outcome payments tied to 13 and 26 week periods of employment would increase agencies' capacity to provide assistance when needed to clients who experience episodes where more intensive support is needed.

Recommendation 2: Outcome payments linked to the achievement of current not future benchmarks

The linking of outcome payments to the achievement of future benchmarks rather than current benchmarks means, in effect, that the future benchmark (work capacity with intervention) is being treated as current capacity. Staff are very much aware that, in many cases, intervention is not as simple as merely modifying the workplace. Capacity building can take months or years and, in the meantime, staff have to choose between pushing a client to take on more hours than they are presently capable of sustaining and getting an outcome payment, or working with the client to slowly increase capacity but not getting paid for that work because the hours are less than the client's designated future benchmark. Professional norms means staff are reluctant to "set clients up to fail", but financial pressures are hard to resist. Linking the outcome payment to the achievement of current not future benchmark would remove the tension which currently exists between the Disability Service Standards and agencies' financial viability. Recognition of work done to increase capacity could be acknowledged through a small bonus payment.

Recommendation 3: Agencies being able to claim an outcome payment when the period of employment covers more than one workplace

While the rationale behind the restructuring of outcome payments under this contract so that periods of employment in different workplaces cannot be accumulated in order to gain an outcome payment is clear, once again, this inability to tailor employment pathways to suit individual need causes tension between professional notions of best practice and financial imperatives. For example, while older job seekers value sustained periods of employment with the one employer, for younger job seekers making the transition from school to paid employment, the ability to 'taste and see', to try out a number of different types of work, is equally valuable and leads to more

stable outcomes. Agencies should be given the opportunity to claim an outcome payment when the period of employment covers more than one workplace and there is a good reason for giving the job seeker experience of different workplaces.

Recommendation 4: Agencies audited against nationally agreed quality requirements

All DES agencies are currently required to meet the National Disability Standards and are audited against these standards. Given work being done to develop a National Quality Framework for Disability Services, part of which involves quality requirements applicable across the whole country, an annual audit of each agency against these nationally agreed quality requirements should provide the government with information on the overall quality of service delivery as well as any areas which need improvement. Agencies which meet these nationally agreed quality requirements (or have taken action to bring any areas of concern up to standard within the life of the contract) should be allowed to continue to operate without having to tender.

Recommendation 5: Remove restrictions on client choice of provider

From interviews with job seekers it was clear that high performing agencies quickly gain a reputation among job seekers as an agency that is able to find you a job. Therefore restrictions on agencies taking clients from outside their ESA should be removed. In other words, let market mechanisms rather than administrative regulation determine the flow of clients into a particular agency.

Recommendation 6: Remove the requirement to meet clients every fortnight

Staff commented that the new contract is much more prescriptive than previous contracts, pointing to the requirement to meet with each client every fortnight regardless of their circumstances. Staff felt this requirement was a misallocation of scarce resources because at times they were just going through the motions and when clients did need more intensive support, there was no time to provide the necessary support. Staff noted that in the past when clients were going well, they had the flexibility to make contact every month or so, but at other times, when job duties changed, or there was a crisis in a client's personal life which affected their work life, staff had time to provide more intensive support.

Recommendation 7: Update EPP as necessary

The requirement to review and update Employment Pathway Plans each fortnight is seen as unnecessary. As one EC noted, "a lot can happen in a fortnight, and nothing can happen". If nothing has happened, reviewing an EPP becomes another 'tick the box' type exercise, using up time that could be spent more productively.

Recommendation 8: Improve the Job Capacity Assessment process

One of the reasons for the increase in time spent on administration under the current contract is the increase in inappropriate assessments which require further administrative work to resolve. The main cause of inappropriate assessments is the mismatch between disability and the professional qualifications of the Job Capacity Assessor. Staff pointed out that it was unrealistic to expect a registered nurse or an occupational therapist to be able to make an informed assessment of a client with mental health issues, even setting aside the difficulties involved in trying to establish a level of rapport in a brief initial meeting such that the job seeker feels sufficiently comfortable to reveal information about their disability and their work capacity.

The consequences of inappropriate assessments are job seekers assessed as being capable of working at a level above their actual capacity, or assigned a level of funding that is insufficient to allow the job seekers to sustain their employment. Faced with inappropriate assessments agencies are able to request a re-referral, but this is time consuming for the agency and stressful for the job seeker, with no guarantee that a higher level of support will be forthcoming.

The significant problems caused by inappropriate assessments will not be overcome simply by using Centrelink staff. Even if Centrelink is able to match the professional qualifications of the Job Capacity Assessor to the type of disability, problems of clients not feeling comfortable enough to reveal all relevant information (assuming they are aware of it) will remain. In order to overcome this problem, job capacity assessments should be treated as a dynamic process with information collected over three months or so. Job Capacity Assessors in Centrelink should make the initial assessment based on available information in the job seeker's file. No face-to-face interview is required. Employment agencies then provide further information

gathered from interaction with the job seeker over the next three months. At the end of the three month period, the Job Capacity Assessor reviews all information, paying particular attention to information provided by the employment agency, and makes a final decision as to current job capacity. Treating the job capacity assessment process in this way:

- removes the requirement for Job Capacity Assessors to fly all over the country – a considerable saving in time and money;
- removes the requirement for job seekers to meet with Job Capacity Assessors – an experience many find stressful; and
- delivers a more accurate assessment as information revealed over time through interaction of agency staff and job seekers is incorporated into the decision-making process.

Recommendation 9: Remove requirement for annual on-going support assessments

The mandatory requirement to undergo a yearly on-going support assessment which leads some clients to exit the program leads to sub-optimal outcomes for those clients. This problem could be easily avoided by dropping the requirement for yearly on-going support assessments, and instead tying the requirement to when there are significant changes in client circumstances.

Recommendation 10: Remove requirement for pay slip as evidence of hours worked

The negative impact on some clients as well as the additional administrative burden placed on agencies would be removed if the requirement to provide pay slips as evidence of hours worked was replaced by a statutory declaration by the agency setting out the number of hours for each client as agreed with the employer.

1. Significance of the research

1.1 Background

When Australia's public job brokerage service delivered through the Commonwealth Employment Service was replaced by a combination of commercial and community or not-for-profit agencies (the Job Network) in 1998, Australia was one of the first OECD countries to use market-type mechanisms to deliver job brokerage and related employment services. With Job Network providers selected through a competitive tender process, funded by an outcome based funding model that requires completion of services and achievement of outcomes before individual claims for payment are made, and future contracts dependent on an agency's ranking relative to other agencies, funding and performance management arrangements for the Job Network have been characterised by high levels of competition and control.

Ten years after the introduction of the Job Network, a review of employment services by the new Minister for Employment Participation found widespread dissatisfaction with the existing system, including concerns over lack of flexibility, resources not being targeted at the most disadvantaged job seekers and the high burden of administration and red tape affecting client services and hampering innovation (DEEWR,2008a). As a result of the review the government introduced a new generation of employment services on 1 July 2009, designed to minimise the number of long-term dependent Australians of working age by providing services that are relevant to the circumstances and needs of job seekers and ensuring that job seekers who are struggling get the most intensive assistance (DEEWR,2008b).

The introduction of competitive, quasi-market arrangements for agencies whose work focuses on providing employment services for people with disability has proceeded at a slower pace than in the Job Network. However, the pace of change within the sector has increased over the last five years. A 2007 study of the purchaser-provider relationship in open employment services for people with disability found that "continuous improvement will depend on the on-going impact of the incentive structure implicit in the quasi-market arrangements that now frame purchaser-provider

relations" (Marsh & Spies-Butcher,2007:9). A new contract was introduced on 1 March 2010 which, like the new generation of employment services introduced for mainstream employment services eight months previously, contained a number of measures designed to reduce administration and red tape, target resources at the most disadvantaged job seekers and encourage greater participation in education and training. In addition, Disability Employment Service (DES) providers were eligible to apply for funding under the $41 million Innovation Fund introduced as part of the new generation of employment services with the aim of assisting service providers develop innovative solutions to the barriers faced by job seekers experiencing significant disadvantage.

This research project provides an independent mid-term review of the new contracting arrangements introduced on 1 March 2010. In doing so, it takes up the question posed by Marsh and Spies-Butcher (2007) about whether closer alignment to the funding arrangements used in mainstream employment services where design principles broadly derive from agency theory, allows disability employment service providers to meet the government's goal of "effective…tailored services that are flexible and responsive" (Australian Government,nd). This research project is also one of the first attempts to assess the merits of the principal/agent approach in a particular institutional context in Australia and in a complex human services environment.[1]

1.2 Trust and control

The history of government funding of social welfare services in Australia is one of increasing government control over what services are delivered and how they are delivered (see Lyons,1995:18-22). However, as funding models move from the traditional grant model where governments provided funds to particular organisations to support the work of the organisation as a whole, to contractual models where governments fund specific programs, the tension between the need to be accountable for the expenditure of taxpayers' money and the need to provide a funding environment that does not stifle innovation and allows for a flexible response to individual need remains. The benefits of an individualised and flexible approach in

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[1] See O'Flynn and Alford (2008) for a discussion of the limited theoretical investigation of critical issues related to principal/agent models.

the delivery of employment services are recognised in the international literature[2] but debate continues over the best way to manage the tension between public accountability and flexible service delivery.

Those who argue that competitive, quasi-market arrangements produce higher quality services, greater efficiency, responsiveness and equity point to studies where the incentive effects of competition worked as predicted (see for example, Le Grand,2007; Savas,2002; Domberger et. al.,1995; Ostrom & Ostrom,1971). For example in relation to the Job Network, the Productivity Commission (2002:xxvi) noted that a competitive, quasi-market model will be most effective when

- program outcomes can be clearly identified and specified in quantitative terms;
- program outcomes can be related to the efforts of the provider;
- process specification can be avoided; and
- contracts can be written to avoid unintended consequences.

However, even advocates of competitive, quasi-market arrangements acknowledge that such models will only produce the desired outcomes under certain conditions (Le Grand,2007:76-77; Brown & Potoski,2004; Stewart,1996). Other scholars point to the tendency of quasi-markets to be subject to risk selection (Struyven & Steurs,2005:219). In employment programs, risk selection occurs when providers focus their attention on job seekers who are easier to place in order to maximise their financial return. Cherry picking or creaming is more likely to occur when there are fewer categories of job seekers as each category will contain a broader range of clients. Creaming can also be combined with parking where providers fulfill minimum requirements in order to receive an initial payment and then make little or no effort to find employment for the more disadvantaged job seekers because their chance of success, and hence the agency's chance of receiving an outcome payment, is low (Struyven & Steurs,2005:219).

The existence of risk selection has long been recognised in the Job Network. In 2002 the Productivity Commission noted the existence of parking and other opportunistic

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[2] Well cited articles in this area are Hirst et.al. (2006), IPPR (2008), Meadows (2008) and Walker and Greenberg (2005).

practices and (somewhat optimistically) predicted that "changes proposed for ESC3 are likely to alleviate parking" (Productivity Commission,2002:xxxiii). Subsequent empirical studies, including this one, confirm that risk selection has not been eliminated (Murray,2006:29-38; Marston & McDonald,2006:8). A lack of resources will increase the likelihood of risk selection occurring, as opportunistic behaviour becomes necessary for survival. For example, Moynihan (2005:219) describes a coping strategy employed by the Department of Corrections in Alabama, a State which has the seventh highest incarceration rate in the USA but is ranked 45th in terms of its per capita spending on corrections. Consequently, the Alabama Department of Corrections is forced to adopt a warehousing strategy where resources are focused on incarcerating the maximum number of offenders in the available space. Thus, warehousing resembles parking of job seekers and, as with parking, undermines more positive policy objectives such as reducing recidivism (Moynihan,2005:219-220). Fiscal stringency may be a contributing factor in the continuing presence of risk selection in employment programs in Australia. For many years Australia has spent considerably less than the OECD average given its employment rate. In 2001, Australia's employment rate was a little above the OECD average, but spending on active labour market programs was only 55 per cent of the OECD average. In 2009, Australia's unemployment rate was 75 per cent of the OECD average, but spending on active labour market programs was only 44 per cent of the OECD average (see Table 1).

Table 1: Unemployment and spending in active labour market programs, 2001 and 2009

Country	Standardized unemployment rate 2001 As % of total labour force	% of GDP spent on active labour market programs	Harmonized unemployment rate 2009 As % of civilian labour force	% of GDP spent on active labour market programs
Australia	6.7	0.45[a]	5.6	0.29[d]
Austria	3.6	0.54	4.8	0.67[e]
Belgium	6.6	1.30[b]	7.9	1.28[e]
Canada	7.2	0.41[a]	8.3	0.30[d]
Denmark	4.3	1.57[b]	6.0	1.35[e]
Finland	9.1	0.95	8.2	0.82[e]
France	8.6	1.31[b]	9.5	0.81[e]
Germany	7.9	1.20	7.5	0.81[e]
Japan	5.0	0.32[a]	5.1	0.26[d]
Netherlands	2.4	1.57	3.4	1.04[e]
New Zealand	5.3	0.55[a]	6.1	0.36[f]

Norway	3.6	0.79	3.1	0.56[g]
Portugal	4.1	0.61[b]	9.6	0.57[e]
Spain	13.0	0.72	18.0	0.73[e]
Sweden	5.1	1.10	8.3	0.99[e]
UK	5.0	0.36[c]	7.6	0.32[f]
USA	4.8	0.15[a]	9.3	0.17[d]
unweighted average	6.0	0.82	7.5	0.66

Notes:
(a) Financial year 2000-01
(b) 2000
(c) Financial year 1999-00
(d) Financial year 2008-09
(e) 2008
(f) Financial year 2007-08
(g) 2007

Sources: 1.OECD 2002, *Employment Outlook*
          2.OECD 2010, *Employment Outlook*

Risk selection is a consequence of the payment system and eradication requires a nuanced approach to the design of financial incentives. A payment system that focuses on outcomes provides incentives for creaming, however higher initial payments provide incentives for parking. To eradicate risk selection, a contract should reward providers "on the basis of their impact on the situation of each individual job seeker [with] the higher the impact, the higher the payment" (Bruttel,2004:13). Therefore contracts which reward interim milestones, such as improvements in soft skills as well as rewarding employment outcomes and providing initial payments are more likely to reduce the possibility of risk selection.

However, government response to evidence of risk selection tends to be an increase in control, as new rules are introduced in an attempt to eliminate unwanted practices, which in turn generate new forms of opportunistic or gaming behaviour. For example, in the United Kingdom, when the UK Government introduced a four hour limit on waiting times in hospitals linked to financial incentives and sanctions, gaming behaviour around the four hour rule developed with patients who had relatively minor complaints and had been waiting for almost four hours seen ahead of more recently arrived patients with potentially more serious symptoms (Brown & Calnan,2010:18).

Continued gaming behaviour reinforces the belief that it is too risky to trust service providers (Brown & Calnan,2010:14), a cycle which, some would argue, leads to

deprofessionalisation of service provider staff who are required to work within ever more tightly conscribed guidelines (Broadbent et. al.,1996:264-265).

> No longer is the "principal" a provider of resource to enable professional work to occur as defined according to professional norms. He or she is there to transfer resources with expectations in definable contracts. The "principal" becomes the new definer of these professional activities and these definitions become passed down through the contractual expectations attached to the transfer of financial resources (Broadbent et. al.,1996:262-263).

In analysing service delivery in the UK, scholars have argued that the cycle of increased control as a response to actual or perceived risk on the part of the government, leading to even lower levels of trust between purchaser and provider leads to worse outcomes for clients as institutional (government) risk is minimised rather than minimising risk to individuals in society (Broadbent et. al.,1996:277: Brown & Calnan,2010:18). Other public management scholars agree that "when services are more complex, of longer duration and involve greater flexibility, the classical model [of contracting] may be ineffective…and a model based more on mutual trust between the parties, adaptability, and an emphasis on quality as well as price is needed" (Beinecke & DeFillippi cited in Van Slyke,2002:501).

An emphasis on mutual trust derives from behavioural psychology where experiments on human behaviour show that the structure and rules of interaction affect behaviour, with opportunistic and illegal behaviour occurring more frequently in competitive settings than co-operative settings (DeHoog,1990:338). In other words, control mechanisms have an impact on the level of trust between contracting partners, but at the same time, high levels of trust enhance the effectiveness of control mechanisms (Das & Teng,1998). For example, Shaw and Allen (2006) describe the relationship between a philanthropic Trust created to provide funding for community organisations in provincial New Zealand and the organisations funded by the Trust as one where funders and recipients trust each other. Low levels of control are exercised by the Trust with recipients only required to provide tax receipts for purchases made with Trust funds and report on their activities over the year. Recipient organisations appreciate the low level of control exercised by the Trust and do not attempt to take advantage of it by engaging in opportunistic or illegal behaviour, and Trustees believe this low level of control is essential if recipient organisations are to be effective because the Trust "can't determine what is important within the community" (Shaw & Allen,2006:218).

Successful high trust/low control relationships between purchasers and providers contradict a basic tenet of principal/agent theory – the theory underpinning the current model of employment services in Australia; namely that agents will seize every opportunity to reduce their work effort unless the principal discourages such actions by intensive supervision and control combined with sanctions. Bruno Frey (1993:663-664) explains this apparent contradiction by arguing that, under certain conditions, more intensive monitoring causes the agent to decrease, not increase work effort because agents interpret the intensive monitoring as a signal that the principal does not trust them. This "crowding out" effect is most likely to occur in situations where the agent "feels that the extent of *self-determination* is unduly restricted by the principal" (Frey,1993:665). For example it has been argued that, individuals willing to work in relatively low wage sectors (such as the community sector) do so because of intrinsic motivations – they enjoy their work which provides feelings of personal worth or accomplishment (Alford & O'Flynn,in press:62-63).

Intrinsic motivation is fostered by (among other things) how much autonomy an individual is given in carrying out required tasks and empirical studies have shown that external interventions, such as monitoring, can have a negative effect on intrinsic motivation, "so that the net effect of control on performance is counterproductive" (Frey & Jegen,2001:601). Ishida and Brown's (2011) study of the effects of monitoring in franchise relationships[3] shows that the extent and ease of monitoring can reduce crowding out effects. Less intrusive monitoring and monitoring requirements that are not time consuming and onerous, reduces crowding-out because the monitoring has less of an impact on the agent's autonomy (Ishida & Brown,2011:35). Therefore, Ishida and Brown (2011:35) recommend less intrusive ways of monitoring such as focusing "on those tasks that are critical to the aims of the relationship instead of monitoring everything that is measurable". While earlier discussion identified a vicious cycle of control and distrust between purchasers and providers, this cycle can be avoided if external intervention by purchasers is perceived by service providers as supportive rather than controlling (Frey & Jegen,2001:594-595).

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[3] Stromback (2008:296) characterises the Job Network as a franchise model with the Network having many of the features common to franchising, including the supply of a standardised product across many different locations, quality primarily determined by prescriptive specification of what is to be delivered, and close monitoring of franchise activities.

1.3 Research methods

This research adopted an intrinsic case study approach (Denzin & Lincoln,2003:136). Case studies are of value for refining theory and suggesting complexities for further investigation as well as gaining a rich understanding of causal processes, all of which are important goals of this research. The initial data collection phase consisted of an analysis of sector responses to the Government's 2008 *Review of Disability Employment Services*. This information is essentially baseline data, providing a picture of the concerns of the sector prior to the introduction of the new contract on 1 March 2010. The second data collection phase consisted of an on-line survey sent to all DES agencies. DES agencies were also asked to distribute a short survey to job seekers. The response rate from both surveys was disappointing – less than 10 per cent – the reasons for which became clear during the interview phase. The primary reason was the pressure which all agencies are experiencing as well as the frequency of requests for information. For example, one regional manager stated that he had completed five surveys in the last month. While survey responses were consistent with views expressed during interviews and focus groups, the low response rate means that the results have to be treated with considerable caution and for this reason the report focuses on information collected during the first and third data collection phases.

The third data collection phase consisted of one-on-one interviews or small focus groups with 124 staff and 73 job seekers from 27 DES agencies in every State and Territory except the Northern Territory. For further details see Tables 2 and 3.

Table 2: Agency Location and Type

Australian Capital Territory	2
New South Wales	9
Queensland	3
South Australia	3
Tasmania	2
Victoria	5
Western Australia	3
Inner Metropolitan	12
Outer Metropolitan	6
Regional	9
Specialist (focussing on a particular type of disability)	4
Generalist	23

Table 3: Staff

CEO	12
Senior Management	58
Frontline Staff	67

At the time of data collection (Oct-Dec 2010), agencies had been working with the new contract for 8 or 9 months. Interview and focus group discussions were designed to elicit detailed information on the impact of the new contract on agencies and job seekers. During interviews, information also emerged on impact on employers. Job seekers were not identified in any way in order to protect their anonymity. Service provider staff were only identified by their position and type of agency. While the larger agencies had sites spread across several ESAs, agencies were classified as inner metropolitan, outer metropolitan or regional on the basis of the site visited.

2. Situation prior to 1 March 2010

2.1 Institutional setting

In July 2008 Australia ratified the United Nations Convention on the Rights of Persons with Disabilities, undertaking (among other things) to "safeguard and promote the realisation of the right to work" (Article 27). However Commonwealth government legislation predates the Convention by 22 years, as one of the aims of the *Disability Services Act* 1986 is to increase employment opportunities for people with disability. Many of the organisations currently providing open employment services were set up in the mid-1980s to provide job seekers with an intellectual disability with an alternative to supported employment (employment in what is now known as Australian Disability Enterprises - ADEs). Disability employment services are funded by the Commonwealth government under the Commonwealth State/Territory Disability Agreement (CSTDA). The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) retains overall policy responsibility for disability services including supported employment services as well as ensuring that all providers meet quality assurance standards. Agencies providing open employment services initially received block grant funding from FaHCSIA, with policy responsibility transferred from FaHCSIA to the Department of Employment, Education and Workplace Relations (DEEWR) in October 2004.

The transfer of policy responsibility to DEEWR marked the beginning of a gradual shift in administrative and funding arrangements with disability employment moving closer to the administrative and funding model that regulates mainstream employment services, now known as Job Services Australia (JSA). At the same time, the total cost and number of recipients of the Disability Support Pension (DSP) has continued to rise (see Table 4), leading the Commonwealth government to introduce new measures in the 2011 Budget designed, in part, to slow the growth in the number of DSP recipients. However, as Peter Whiteford pointed out, the phasing out of the mature age allowances, partner allowance, the wife and widow B pensions and the widow allowance, as well as the increase in pension age for women combined with structural ageing of the population accounts for almost half of the increase in DSP recipients between 1996 and 2009 (Whiteford,2011).

Table 4: Increase in Disability Support Pension

	1991[1]	2004[2]	2009/10[3]
No. of recipients	334,234	704,000	792,528
Total cost	$2.8 billion	$8 billion	$11.8 billion

Sources: 1. Department of the Parliamentary Library 2002, *Family and Community Services Legislation Amendment (Disability Reform) Bill 2002*, *Bills Digest No. 157 2001-02*, p5
2. Department of Family and Community Services 2004, *Portfolio Budget Statements 2004-05, Family and Community Services Portfolio, Budget Related Paper No. 1.8*, p229
3. Department of Families, Housing, Community Services and Indigenous Affairs 2010a, *Annual Report 2009-10*,
http://www.fahcsia.gov.au/about/publicationsarticles/corp/Documents/2010_Annual_Report/ch10.htm
viewed 28 April 2010

Case based funding, a fee for service system based on the job seeker's assessed requirements, replaced block grant funding on 1 July 2005 after a series of prior trials. Further changes occurred a year later as part of the Commonwealth Government's Welfare to Work reform package. Welfare to Work reforms were introduced to "increase workforce participation and reduce welfare dependence among working age income support recipients and in particular for people in four target groups – principal carer parents, people with disability, mature age job seekers and the very long-term unemployed" (DEEWR,2008c:iv).

Up until 1 July 2006, the Disability Employment Network (DEN) primarily provided assistance to voluntary job seekers who needed long-term support (more than two years) to maintain employment. The program was capped. Under the 2006 Welfare to Work reforms, a new uncapped program was introduced to assist job seekers with disability who were required to look for work in order to meet new participation requirements (see Table 5). At the same time, Job Capacity Assessments (JCAs) were introduced. These assessments covered work capacity, permanency of conditions and impairment in line with eligibility criteria for the DSP. The assessments were undertaken by Job Capacity Assessors who were qualified allied or other health professionals employed by government or private providers. The JCA process identified participation requirements and level of assistance for job seekers with disability as well as the level of funding attached to each job seeker. JCAs were also used to assess eligibility and continuing eligibility for the DSP and exemption from activity requirements because of temporary incapacity. Individuals who had not reached their expected work capacity two years after an assessment were also reassessed.

Table 5: A comparison of DEN capped and uncapped programs

	Capped Program	Uncapped Program
Eligibility	Permanent (or likely to be permanent) disability which required more than 6 months support to maintain employment Must meet **one** of the following criteria: • Assessed future work capacity of 8 hours or more per week and requires long-term support after being placed in employment and/or unable to work at full wages • Assessed future work capacity of 0-7 hours	Permanent (or likely to be permanent) disability which requirement more than 6 months but less than 24 months of support Must meet **all** of the following criteria: • Assessed future work capacity of 15 or more hours a week • receiving or likely to receive Newstart Allowance, Youth Allowance, or Parenting Payment • can work independently in the open labour market with up to 24 months employment assistance
Frequency of contact	Regular 9 monthly contact	Fortnightly contact
Support once in a job	Support can be on-going	At least 6 months but up to 21 months depending on how soon the job seeker is place in a job
No. of funding levels	Four funding levels	Four funding levels
No. of outcome payments	Three payment points at 4, 13 and 26 weeks	Three payment points at 4, 13 and 26 weeks
Service fee payment frequency	Monthly for 10 months, then monthly for as long as required to maintain employment	Monthly up to 24 months

Source: Department of Education, Employment and Workplace Relations 2008d, *Review of Disability Employment Services: Disability Employment Network and Vocational Rehabilitation Services: A Discussion Paper*, Canberra, p.19

2.2 Concerns of the disability employment sector

In 2008 DEEWR undertook a review of disability employment services and issued two discussion papers seeking the views of stakeholders of the Vocational Rehabilitation Service and the DEN in the context of social inclusion and skills agenda. The purpose of the review was "to take a fresh look at these services – to build on their strengths and to identify improvements" (DEEWR,2008d). In practical terms, the results were to be incorporated in the next contract and existing contracts were extended until February 2010 to facilitate this. Consultation meetings were held in all capital cities and a number of regional centres and written submissions were sought. The first discussion paper, *Review of Disability Employment Services: Disability Employment Network and Vocational Rehabilitation Services* (DEEWR,2008d) released on 3 September 2008, took into account comments relating to disability employment made in submissions to the Employment Services Review

and the National Mental Health and Disability Employment Strategy. In December 2008 a second discussion paper, *The Future of Disability Services in Australia,* outlining the proposed new model was issued and also generated public submissions.

There was broad agreement amongst those making submissions about what was working well and what needed improvement. Identified strengths included:
- the legislative framework, including the Disability Service Standards;
- the existence of specialised services for people with particular disabilities;
- recognition that participation should match individual capacity; and
- post-placement support (DEEWR,2008e).

However, agencies expressed concern even in relation to these identified strengths.

Disability Service Standards

Agencies were committed to the Disability Service Standards but felt there was a tension between the emphasis of the 'Work First' agenda implemented in the previous decade as opposed to supporting the job seeker until they are able to work and then finding them the right job.

> DEN employment services are tailored to the individual's needs in accordance the Commonwealth Disability Service Standards and adopt a whole of life approach to the participant. The fast turnaround in employment outcomes required to gain and maintain good star ratings discourages investing time in working on what can be perceived as non-employment related problems and personal barriers in their life and education. These issues often affect a person's self-esteem and confidence, which directly affects employability. Many DEN participants can take considerable time to develop trust and engage with employment consultants (GETT Centre,2008:1).

Specialised services

A quarter of the submissions made in response to the second discussion paper, *The Future of Employment Services in Australia*, commented on the need for specialised employment services for job seekers with disabilities. The authors were concerned that the needs of job seekers with disability would not be best served if specialised services ceased to exist because the understanding and expertise that such services had developed over the years would be diluted or lost.

> Specialist services give clients real choices. They tend to develop their own model rather than attempt to mimic other providers. Over time the purchasing and contracting environment appears to have become less favourable to specialist providers. Few (if any) specialist Indigenous specialist Job Network sites remain. Special JN services for people with disabilities have had fewer referrals, while youth specialist services have become less viable because of changes to access to Intensive Support (Job Futures,2008:72).

<u>Flexible, individual services</u>

Concerns were also raised in relation to the ability of service providers to tailor services to meet the individual needs of job seekers with disability (ACE,2008:14; ACOSS,2008:26; HREOC,2008:2). The contract was described as being based on a "one size fits all" approach and as the "get better model" where there is an underlying assumption that a job seeker's barriers to employment will be addressed by simply securing work (ACE,2008:14). It was felt that there was too much emphasis on gaining employment at the expense of addressing life issues, training, developing work capacity and providing on-going support, including career progression and that this 'work first' emphasis would not bring about "long-term sustainable benefits to individuals or employees" (The Mai-Wei Group,2008:3&7; Western Australian Association for Mental Health,2008:6-7; MAX Employment,2008; NESA,2008).

> [T]he current drivers of disability employment policy are overly focused on working quickly to place people in 'any job'. ACE members are concerned that a 'quick' outcome is not necessarily a good or sustainable outcome and that there remains an ongoing need to 'invest' in job seekers if we want to continue to see participation increase further over time (ACE,2008:14).

DEN providers noted the need to develop an understanding of the work environment and work capacity by using unpaid work experience of short-term placements, or placing the job seeker in a position with fewer hours. There was concern that the time and effort involved in developing opportunities and supporting job seekers through the process was not rewarded by the funding model (Australian Chamber of Commerce and Industry,2008:3; Australian Hotels Association,2008:11). Although agencies were concerned to provide a quality service and choices to job seekers with choices in line with the Disability Service Standards, the emphasis on outcome based funding meant that they had to make business decisions about investing funds in training or spending time arranging placements based, at least to some extent, on the likelihood of success in order to stay financially viable. As a result, since the introduction of outcome based funding, the level of such investments had been reduced (Australian Hotels Association,2008:16).

Providers were also concerned about the intrusive and inflexible assessment and registration process which removed natural pathways to registration for school leavers and job seekers on the DSP.

> For people who approach us with interest in registering (Walk-in) who have not been referred by a JCA, they are faced with a very involved and daunting process. The person needs to meet with Centrelink (sometimes more than once), they need a treating doctor's report and then a JCA interview before returning…Our last 'Walk-in' took over 2 months to be referred back to us. This involved several calls from the distressed job seeker and subsequent involvement from us to progress the process (Blueline Employment,2008).

The JCA process was a source of particular concern. Assessments were compulsory and had serious consequences for the life of job seekers and funding of providers since the Job Capacity Assessor set the number of hours to be worked. However, JCAs were carried out by randomly assigned allied health professionals and a major difficulty was the breadth of experience required to deal competently with the broad range of disabilities presented by job seekers. In many cases, Job Capacity Assessors lacked adequate knowledge of the impact of the job seeker's condition on their capacity to work, resulting in inappropriate referrals (Finding Workable Solutions,2008:2). This was of particular concern in relation to clients with intellectual development or mental health issues who had little insight into their condition. Assessors were seen to be hampered because the short time they had with job seekers was not long enough to build the rapport necessary for adequate disclosure and by the tendency for job seekers to want to "do their best" at the interview (HREOC,2008). In the worst case, assessments could be inconsistent and two assessments, based on the same evidence could result in different employment benchmarks (Bendigo Access Employment,2008:1-2).

Despite concerns about the accuracy and consistency of the JCA system, the impact of inappropriate assessments on the job seekers and their own financial viability, providers were dependent on referrals from JCAs and needed to try and develop and maintain positive relationships with them while trying to serve the needs of the inappropriately referred job seekers or reject them (Pep Employment,2008:8-9).

Lack of flexibility to transfer between systems was also identified as an issue. The requirement for job seekers who were on the DSP but wanted to try and gain employment to be subject to a JCA discouraged them from registering with DEN providers because of the risk of losing long-term income support, especially if they had little or no employment experience or were dealing with a new disability (Anglicare Australia,2008:2; Bedford,2008:4; Community Bridging Services,2008:1). The Human Rights and Equal Opportunity Commission (HREOC) noted these two

issues, commenting that because one assessment was being conducted for two purposes there was a risk of confusion for the job seeker and inappropriate release of personal information (HREOC,2008:3&6-7). Providers also commented on the difficulty of a single JCA process being used to assess capability to for employment and identify eligibility for employment services and to assess lack of capability in the context of income support (Bedford Industries,2008; Community Bridging Services,2008; National Bridging Services,2008).

> The dual purpose of the assessment sends a mixed message to prospective job seekers, on the one hand encouraging them to emphasise their work capacity; on the other, their incapacity (Bedford Industries,2008:4).

Post-placement support

Agencies believed their ability to offer on-going post-placement support in the way most appropriate to the individual job seekers was compromised by a funding model that was based on the assumption that once an initial training period was completed, job seekers would not require significant on-going support, or that their needs would not change. In other words, the funding model did not take into account changes in the workplace, the desire by workers to move to another position within the company, or to a new employer, or the differing nature of disabilities. Providers did not believe that the contract provided them with the freedom and funding required to support workers living with episodic or degenerative conditions. They also noted that this damaged relationships with employers which they saw as a key part of the system. Providers noted that they worked hard to build good relationships with employers over time and an important part of this relationship was giving employers confidence that they will be there to support workers with disability to ensure that the workplace is not unduly disrupted – something they found difficult to do in the face of external assessment processes for on-going support and limited capacity to vary set support levels in response to changing individual needs (National Council on Intellectual Disability,2008:2; Psychiatric Disability Services of Victoria,2008). Employers also called for education and support from providers to increase their awareness and understanding of issues in relation to their employment of workers with disability, including the benefits to them and barriers experienced by employees (Australian Hotels Association,2008:13).

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Apart from concerns raised about what had been identified as strengths of the DEN, service providers were concerned about the:

- level of administration involved in the program;
- compliance, risk monitoring and auditing requirements; and
- information management arrangements for the program.

Administration

Service providers readily acknowledged the need to properly account for expenditure of public money. They recognised that these were valid requirements, with some agencies suggesting penalties for services found to be in breach of rules (Jobsolve,2008). Their concern was the balance justifying compliance with rules and providing quality services to job seekers. They felt that the point had been reached where meeting administrative requirements was compromising their ability to provide high quality individualised service to job seekers (Anglicare Australia,2008; Business Enterprise Centre,2008; GETT Centre,2008; Choice,2008). There was a feeling that the intent of implementing a 'steering not rowing' model and removing the government from day-to-day provision of services had been undermined by the increase in regulations, administrative requirements and on-going monitoring (Catholic Social Services,2008).

Providers estimated that the time spent on administrative tasks had increased, with estimates ranging from 40 per cent to 70 per cent. Most service providers estimated that administration now accounted for 50 per cent of staff time (Anglicare WA,2008; Community Bridging Services,2008; HETA,2008; Job Futures,2008; Sarina Russo,2008; Work Connection,2008). Some providers employed dedicated team leaders or administrative staff at sites to allow employment consultants (ECs) to continue to spend time working with job seekers while others identified a need for additional funding to reduce case loads.

Providers were concerned about the strict separation of policy development from practice noting that it meant that policy was being made without knowing how it would impact on job seekers or employment providers. This created tensions for service providers which worked with disadvantaged job seekers but felt that their

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method of work was being increasingly prescribed by DEEWR and that they were not able to provide feedback to bring about positive change (Catholic Social Services,2008).

Compliance

Many providers had difficulty with being assigned a role in a compliance regime that they saw as weighted towards punitive measures to ensure engagement. They felt that it was at odds with their ultimate purpose of supporting people and developing their capacity in order to gain open employment, involved them in administrative process work, took them away from working with clients and was counterproductive in building the long-term, trust-based relationships with clients that are important for achieving long-term positive outcomes (ACOSS,2008; Business Enterprise Mersey,2008: Catholic Social Services,2008; HETA,2008; Job Futures,2008; UnitingCare Australia,2008).

Many felt the focus on increasing the intensity of the job search by increasing activity requirements would not achieve the desired increase in employment and that it had the potential to undermine the other methods of improving employment outcomes such as increasing the effectiveness of the job search process and improving employability, both of which require more time and resources and stronger relationships to be effective (ACOSS,2008; Catholic Social Services,2008).

Participation Reports and the lack of discretion for agency staff to make judgements about making reports was a concern for a number of agencies. They saw it as counterproductive to long-term relationships, potentially destablising for vulnerable clients, counterproductive in relation to outcomes and demoralising for staff because they were not permitted to use their professional judgement in managing the client relationship, which ultimately contributed to high staff turnover rates in the sector (HETA,2008; Interact Australia,2008; Job Futures,2008; WISE,2008).

Providers understood the thinking behind a compliance regime, but commented that mutual obligation needed to work both ways and that activities needed to be meaningful to clients and appropriate to their circumstances. It was suggested that compliance might be better managed using a risk management approach where

resources were directed towards those assessed as being at risk of non-compliance, rather than applied to the development of an inflexible activity-based system. More importantly, they felt that the role properly belonged to government, not to agencies trying to actively engage clients and build their capability for long-term meaningful employment (Job Futures,2008; Jobs Australia,2008; NESA,2008; Physical Disability Council of Australia,2008).

> The operation of mutual obligation has, in effect, combined the goal of helping people into sustainable and valued employment with the goal of ensuring the integrity of the social security system. The two issues are separate and need to be dealt with separately. We believe that monitoring and following up on job seekers who are perceived not to be complying with the Social Security legislation is the responsibility of the Government (UnitingCare Australia,2008:4).

Risk management

In general, DEN providers were not happy with the approach of monitoring day-to-day operations and auditing.

> Over time, government's purchasing department…has increased the administrative burdens on the Network through a contract compliance and audit regime which focuses more on file documentation and maintaining accurate computer records of transactions and activities than on the quality of service and experience of individual job seekers (Anglicare Australia,2008).

They felt that DEEWR's requirement for monitoring minor activities such as expenditure of as little as $5 was not only time consuming, but counterproductive and demoralising (Salvation Army Employment Plus,2008). Furthermore, DEEWR monitoring only measured transactions and activity, but provided little or no assurance that job seekers were actively engaged or building capacity towards employment (CRS Australia,2008).

The time taken to obtain approval for expenditure discouraged staff from providing some discretionary services to clients (Job Futures,2008). They noted that recording an unscheduled appointment on EA3000, DEEWR's IT management system, could take longer than the appointment itself. For example, up to 30 mouse clicks over several different screens were required to input a contact note (HETA,2008) and providers had noticed an increase in repetitive strain injuries amongst staff (CRS Australia,2008). The increase in administrative tasks was seen to be inconsistent with staff motivation for working in a DEN and the emphasis on approval and monitoring was felt to remove the freedom of staff to use their professional judgement. Some providers had attempted to address this issue by recruiting staff to deal with

administrative compliance and others by reducing caseloads. These issues were identified as being relevant to the high staff turnover in the sector which in turn increased financial pressure on providers because of increased recruitment and training costs, as well as decreasing the quality of service to clients because of breaks in continuity and the need to retell their story and rebuild rapport (Jobsolve,2008; The Mai-Wei Group,2008; Open Minds,2008).

Auditing

Providers clearly recognised the need for external audit for quality assurance and financial compliance and accepted that failure to meet quality assurance standards should entail a penalty. However, they had difficulty with the number of audit processes. They commented that they were subject to rigorous external auditing in relation to the Disability Service Standards to maintain DSC Certification and that additional auditing for compliance with the contract was unreasonable and unnecessary. This was especially the case where providers offered multiple services, increasing the number of audit processes (Bedford,2008; Business Enterprise Centre,2008; CRS Australia,2008; Mission Australia,2008; WISE,2008). In addition, Mission Australia suggested that financial audits should be conducted by professional assurance firms using standard tools rather than being conducted by DEEWR.

> The real irony is that what was established as a quasi-market model that encouraged initiative and competition has developed into one in which there is more government auditing and regulation that in the public system it replaced (Anglicare Australia,2008:14).

Updates of regulations and guidelines

Increasing levels of regulation within the system and the amount of documentation with which providers had to be familiar was also identified as an issue. Service providers commented on the volume (534 pages) and frequency of updates and number of places which needed to be checked to ensure currency and completeness of information (Spinal Injuries Association,2008) and noted that some had established special positions to monitor changes (National Disability Services,2008).

The IT system

DEN providers were required to work with EA3000, an IT system maintained by DEEWR, which provided case management functionality and allowed DEEWR to monitor transactions and produce statistics. EA3000 was primarily a payment system

(Steps Disability,2008), helpful for monitoring caseloads as a whole but not for individual case management (Continuing Education Centre,2008) which meant that providers needed to maintain their own systems as well as EA3000. EA3000 was assessed as inflexible and not user friendly. It had not reduced the time needed for administration and "detailed knowledge of EA3000 has become a prized skill within the industry" (Job Futures,2008:84).

Problems with EA3000 included the need to open multiple screens to access or input information, the inability to have multiple job seeker appointments scheduled at one time, difficulty in changing appointments to take account of changing schedules or delays, difficulty in changing details to take account of changes in circumstances such as physical or e-mail addresses and in correcting system errors. In addition, EA3000 had no functionality for post-placement support (NESA,2008) and was essentially office-based, which made it difficult to use in regional and remote areas, and even in metropolitan areas where meetings were held away from the office in order to fit in better with the needs of a client (Job Futures,2008).

CRS Australia (2008) summed it up in the following way.

> The current contract management approach depends largely on desk top/computer based audits using the DEEWR IT system which is inflexible and absorbs an enormous amount of provider time. The attempt to 'computerise' every aspect of human service delivery and the significant input focus of the current compliance regime is creating unnecessary and unproductive burdens for employment service providers and distracting providers resources and attention away from the achievement of durable employment outcomes for job seekers. Given the existence of Disability Service Standards accreditation requirements and the operation of a milestone and outcome based funding model, such a micro-process focused approach to contract management and IT systems would seem to be unwarranted.

Access to information

Timely and convenient access to information to provide services to clients, monitor and improve agency management and increase the effectiveness of the sector was also commented upon. Despite the requirement to record detailed information about transactions in EA3000, providers expressed dissatisfaction with the completeness and consistency of information available to them on which to base their support decisions for individual clients. They indicated that they sometimes had to gather information by phone because it was not available in the system (Castle Personnel,2008).

Providers acknowledged the importance of respecting clients' rights to privacy but felt that sharing relevant information was essential for efficiency and to allow better tailoring of services. They noted that clients were frustrated by multiple reporting requirements and disliked having to retell their story over and over (Employment Directions,2008; Job Match,2008; National Disability Service,2008; National Welfare Rights Network;2008; Salvation Army Employment Plus,2008). The Human Rights Commissioner was concerned to ensure that unnecessary information about medical conditions was not provided to service delivery agencies and that clients understood and consented to the collection and use of information, but supported the requirement for providers to have access to information about clients' work capacity, barriers to employment, and level and type of work (HREOC,2008:6). There was also a call for a review of data recording requirements and the elimination of information which was not regularly used (NESA,2008).

Access to performance information was also a concern. Providers wanted timely access to their own Health Check reports, more information about the operation of the star rating[4] system and timely access to their own star rating in order to improve their operations and make management decisions (Interact Australia,2008; Job Futures,2008; National Council on Intellectual Disability,2008; NESA,2008; UnitingCare Wesley Port Pirie,2008).

The solution to all of the problems identified by service providers? "Trust and flexibility need to be restored and embedded in the system. That will bring out creative problem solving and innovation" (WISE,2008:4).

2.3 The introduction of a new disability employment service

The aim of the new Disability Employment Service was to provide "all eligible job seekers with access to individually tailored and comprehensive services including capacity building, training, work experience and other interventions to help participants obtain and maintain suitable employment" (Australian Government,nd). As outlined in section 2.2, in the lead up to the introduction of this "new and

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[4] A rating system developed to show relative performance and used to assign market share to agencies.

improved" Disability Employment Service, the Government undertook "an extensive consultation process, including an invitation for initial submissions, a discussion paper responding to those submissions and two nation-wide consultation periods" (Australian Government,nd). The structure of the new service appeared to reflect the concerns identified by service providers during the consultation process. The Government said that it had:

- removed the cap on the program designed to provide on-going support to job seekers with disability;

- placed a stronger focus on job outcomes with the greatest rewards linked to sustainable jobs;

- targeted resources at the most disadvantaged job seekers;

- reduced the administrative burden on service providers;

- introduced a flexible approach so Disability Employment Services can deliver a mix of interventions to address both vocational and non-vocational barriers;

- introduced better incentives for Disability Employment Services to encourage skills development, education and training;

- required all service providers to be certified as complying with the Disability Service Standards; and

- provided assistance as early as possible, including for school leavers, to ensure a successful transition to work (Australian Government,nd).

The impact of this "new and improved" Disability Employment Service on service providers, clients and employers is discussed in section 3.

3. Impact on service providers, clients and employers

3.1 Uncapping of the program

The uncapping of the program was universally welcomed, with many service providers commenting that the government should be commended for providing the opportunity for all Australians with a disability to receive assistance in finding employment in the open labour market. As discussed in section 2, the introduction of an uncapped program in 2006 for job seekers assessed as being capable of working 15 or more hours per week who are required to look for work in order to meet part-time participation requirements, was the beginning of a change in the mix of disability type in disability employment services. The majority of clients in the capped program had an intellectual disability (ID), whereas the most prevalent disability type in the uncapped program was psychiatric disability, followed by physical disability, with only a relatively small proportion of ID clients. Agencies which had developed very effective programs designed to assist ID clients were confronted with the challenge of working with a significantly different client base.

The extent of the challenge facing agencies is reflected in the experience of an agency which had a 4.5 star rating for its capped program, where 42 per cent of clients had a intellectual disability, 19 per cent had a psychiatric disability and 13 per cent had a physical disability, but had a 1.5 star rating for its uncapped program where 59 per cent of clients had a psychiatric disability, 20 per cent had a physical disability and only 3 per cent had an intellectual disability (Health Check 27 February 2009).

The 2010 uncapping of the program, in effect, merged the capped and uncapped programs. The implications of this merging of the two programs is that agencies which had previously specialized in assisting clients with an intellectual disability (through the capped program) and chose to tender as a generalist service[5] continued to see a decrease in the proportion of voluntary ID clients and an increase in the proportion of clients with mental health issues and an increase in the proportion of clients who had mutual obligations; that is, clients who are required to participate in

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[5] Some agencies chose to tender for a generalist service because they were unsure of the financial implications of remaining a specialist agency, others because they were the only agency in town and therefore felt they had an obligation to provide services to all job seekers with disability regardless of disability type.

the program.[6] Agencies operating in inner metropolitan areas are most affected by this change in client mix, with regional agencies reporting lower percentages of mutually obliged clients.

When asked about the impact of this increase in clients with mutual obligations front-line staff noted that all voluntary clients want to find a job, whereas there is a small percentage of mutually obliged clients who do not want to work and have developed strategies which ensure they remain unsuccessful in their job search. For example, turning up to an interview in bare feet, or ringing an employer about a vacancy and saying, "look I have a bad back and I can't walk, but I want to apply for this job" (Manager, inner metropolitan agency). Front-line staff who started working in the sector because they had a passion for helping people with a disability, find it difficult to deal with clients who say, "I am only here because Centrelink told me I have to. Don't talk to me. I am just going to sit here for a while and then I will leave and you can't do anything about it" (EC, inner metropolitan agency).

Our research suggests agencies are also expected to find work for 63 or 64 year olds who have been made redundant or have lost their job and do not want to look for more work as they have worked and paid tax all their lives and are now just waiting until they can go on the age pension. People who are in the middle of chemotherapy are also being referred to DES agencies after being told that they are required to look for work while waiting to see if their cancer goes into remission. Agencies operating in inner metropolitan areas report an increase in older clients who have recently migrated to Australia or who been living in Australia for many years but cannot speak English.

> The grandma who has just arrived in Australia, doesn't speak the language, only done subsistence farming and has a disability on top and being sent to us because they're on Newstart and Newstart get sent to us if they're got a disability and that's it (EC focus group, inner metropolitan agency).

> I have seven Cantonese and Mandarin speaking people in their sixties, you know, can't walk, they are incontinent, things like that. Centrelink is saying they have to look for work…It's very demoralizing for them. It's demoralizing for staff because staff go, "this is just a joke" (EC, inner metropolitan agency).

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[6] Overall 65 per cent of DES clients have mutual obligations.

In many instances undiagnosed or untreated mental illness is triggering aggressive behaviour, but agencies do not have the capacity to refer such clients to appropriate services and, under the new contract, cannot refuse a client that has been referred by Centrelink.

> The JCA will diagnose them as having a mental illness and saying in the assessment that they would benefit from medical intervention or counseling, but they don't make referrals to them…The client is sitting in front of us saying, "I don't have a mental illness, I don't need medication", and they're screaming at us. It's threatening…[but] what do we do when the referral is here? We can't reject them. Even now with abusive behaviour, they just get re-referred back (EC focus group, inner metropolitan agency).

Some mutually obligated clients are angry and frustrated and agencies have had to modify work sites (buzzers under desks) and work practices (sending two staff rather than one to visit a client, interviewing clients in open plan areas rather than individual offices). Staff are expected to manage non-compliant behaviour by lodging Participation Reports (PRs), but PRs are not a particularly effective means of managing behaviour because of the distance between the enforcing agency (Centrelink) and the individual client. For example, staff recognise those mutually obligated clients who are "playing the system" and are prepared to lodge a participation report with Centrelink, but are disappointed when Centrelink overturns a report on grounds that the agency considers inappropriate. For example,

> We had a client that was 450 metres away – because we actually measured it – from our office and they disallowed the PR on the grounds that the job seeker could not get to our office because there was no public transport (Staff focus group, inner metropolitan agency).

In other circumstances where staff felt that the client may not necessarily fully understand their obligations, they lodged a participation report asking that a warning be given, and felt equally disappointed when Centrelink applied a financial penalty.

> I had a young girl with an intellectual disability who wasn't turning up to things…I had to PR her…so I just asked for a warning. They took two days pay off her…I fought with them over the phone. I said, "this isn't what I wanted. This isn't going to solve the problem. I don't think she understands what the repercussions can be, that's what I want" (Staff focus group, metropolitan agency).

Staff commented that they are now expected to build a relationship with the client and get them a job and at the same time, monitor compliance and report breaches which may well destroy whatever relationship has been developed.

An even bigger problem for agencies is the number of clients being referred to the Employment Support Service who are not job ready.

> We are inheriting through poor assessment and poor referral processes a whole range of people who, at this point, are not ready or motivated to work, and the costs, from a resource

point of view are substantial. We still have to engage with these people…but in reality there is no prospect within a two year program of achieving employment outcomes for the vast majority of those clients (CEO, inner metropolitan agency).

Many agencies commented that DES is seen as "a dumping ground for clients that are too difficult to work with", or an agency of last resort when Centrelink cannot work out where else to put somebody.

I've had Job Capacity Assessors saying to me, "there's nowhere else to go. Nowhere else to go. It's inappropriate, but there's nowhere else to go" (Senior Manager, regional agency).

Other agencies go further describing a shuffling of clients who have multiple barriers and are not job ready between mainstream JSA and DES agencies.

When I was a manager of a JSA provider, if we had these sort of clients, it was, "well they should be in DES, they're not right for our program", and we would do everything we could to get them into DES. Now I'm the DES provider, "well they're not really right here either" (Manager, metropolitan agency).

Now we have clients on Newstart and they seem to be coming here instead of Stream 4. I suspect that is because a lot of the services that are providing the Stream 4 can't provide the service (Senior Manager, regional agency).

Such clients are often homeless, have drug and alcohol and/or mental health issues, and require a range of different types of intervention before they can realistically look for work and staff question whether government expectations are realistic.

You wonder what the government's expectations are sometimes. I mean a prime example is a guy who is a schizophrenic, drug dependent…crush injuries…multiple gunshot wounds [and] all of a sudden we're going to turn his life around? What are the expectations and what do they expect us to do with him (Manager, metropolitan agency)?

DES agencies cannot refuse clients that are referred to their service until they reach 130 per cent of their market share, so they take these clients on "purely to get the evidence to get them streamed out again. Meanwhile people are getting burnt by this process…They've been shoved from pillar to post" (Senior Manager, regional agency).

The Personnel Support Program (PSP) was a Job Network pre-employment program aimed at job seekers whose personal circumstances (such as homelessness, mental illness, family violence) meant they were not able to immediately or effectively look for work. The aim of the PSP was to assist those very disadvantaged job seekers reach a point where they could be referred to other Job Network services without getting breached for non-compliance. Staff who worked in the program believed it was "a very good program. I think those people did need two years to get back on track and with that amount of time we were able to re-link them into the right community supports and get people over the line. Some people we didn't, but with a

lot of people we actually did it" (CEO, regional agency). For other PSP clients, staff worked to get them onto the Disability Support Pension (DSP). With the introduction of the new Job Services Australia (JSA) model in July 2009, PSP clients were moved into Stream 4 of JSA which was set up to assist highly disadvantaged job seekers. However, the key performance indicators (KPIs) for Stream 4 changed from the non-vocational outcomes of the PSP to the employment related outcomes which characterise the rest of JSA, which means there is a financial incentive for JSA providers to transfer Stream 4 clients with multiple barriers who are unlikely to achieve an employment outcome to another agency. The fact that such transfers often occur 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 or what have you. Other services recognise they are not going to get an outcome from them so they move them on. By that time, most of their payments have been used anyway so the other service gets no benefit but has to undo any damage that was done in the previous relationship. It is a real mess (EC, outer metropolitan agency).

Under the new DES contract, outcome payments became more heavily weighted towards "hard" employment outcomes. Consequently DES agencies committed to providing a client-focused service do what they can for such clients – referring them to a counseling or housing service, or to literacy classes, or helping them write a letter to go and get their teeth fixed, or advocating on their behalf, as well as, where appropriate, assisting them to apply for the DSP – but are well aware that continuing to provide necessary non-employment related interventions will affect their financial bottom line and star rating.

> You can become a 5 star service if the Job Capacity Assessor thinks, 'this person's employable, we know this service gets people employment quite well, send them there', and they think that [name of agency] could help this [other] person in so many other ways because they go above and beyond…[Our agency] won't be here though if they keep doing that (Staff focus group, metropolitan agency).

Even if agencies are able to remain financially viable, the increased amount of agency resources devoted to mutually obligated clients means there is less capacity to be involved in outreach or marketing activities aimed at the agency's traditional client base.

> That has been a big change for us – to say, "have we got room now for people we would normally market to?...Our resources are stretched under this contract…[So] do you start to get out of providing services to our traditional client group because you can't afford to provide the sort of services that are essential to be successful with that client group? (CEO, inner metropolitan agency).

> Our capacity to go out and direct register clients is much less than what it used to be and that's meant a drop off in the people with more significant ID levels because they are the people who don't go to Centrelink (General Manager, regional agency).

For many agencies their traditional client group is job seekers with an intellectual disability who come to the agency through direct registrations. That is, they are not referred by Centrelink but choose to come because they have heard about the agency or have had contact with the agency while still at school and wanted help in finding open employment. Under the new contract, job seekers assessed as having a work capacity of 0 to 7 hours a week are not eligible for the Employment Support Service – instead they are eligible for the Disability Support Pension. However agencies are able to assist such job seekers if they come into the program through direct registration. Therefore any reduction in agency capacity to maintain the networks which resulted in direct registrations runs counter to the government's objective of trying to increase the number of people with disability who have an opportunity to participate in paid employment.

3.2 Payment Structure - stronger focus on job outcomes and resources targeted at the most disadvantaged job seekers

The financial pressure generated by an increase in the number of clients who are not job ready or do not wish to work has been exacerbated by changes in the payment structure with more weight given to employment rather than pre-employment outcomes as well as the fact that it is now harder for agencies to achieve the more heavily weighted employment outcomes. In the previous contract agencies received service fees which covered the work they did in finding someone a job and a four week outcome fee. An additional outcome fee was a bonus in recognition of the fact that they had got someone a job which lasted 26 weeks. Under the current contract, agencies receive a smaller service fee and no longer receive a four week outcome payment, as the majority of payments (60 per cent) are linked to the 13 week or 26 week outcome. If, for whatever reason, clients lose their job at 12 weeks, "you are not going to get anything for it, that's it – you have missed the boat" (Manager, metropolitan agency). Similarly, if a client is automatically transferred to another provider because they changed their address, the original provider that found the client the job and supported the client in that job, does not receive the outcome payment (Manager, outer metropolitan agency).

As with the uncapping of the program, agencies were in sympathy with a focus on employment outcomes, with a CEO of one agency remarking that "the move to outcome based funding has been a good thing [because] we were too complacent",[7] but there was also a sense that the pendulum had swung too far in its emphasis on outcome based funding.

> It is no longer about the client. It is all about, 'oh I have to get 15 people a job in the next 15 weeks otherwise we are sunk' (Team Leader, metropolitan agency).

> 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).

Pressure to place people into jobs can have positive consequences – more clients in employment – but can also have a detrimental effect on clients when staff feel they have to push clients into accepting jobs they may not want to do, or feel capable of doing. An EC working in an inner metropolitan agency described this aggressive approach as "bullying – forcing people into stuff that's inappropriate", and because she refuses to work in this way has had a number of clients transferred to her caseload who were unable to cope with the pressure being applied from other ECs.

> For one of them, I had their Mental Health Worker contact me about how I work with people. I had another one whose parent came and they felt safe then.

Apart from the EC quoted above, no other staff said that bullying of clients occurred in their agency, but had heard of it occurring in other agencies.

> Clients are giving us feedback, "oh you're not like service X down the street are you? [Service X] would tell me, "we've got you a job, you're turning up tomorrow or else we'll take your payments away from you" (EC, inner metropolitan agency).

Clients agreed that some ECs "were very forceful".

> Like originally I always wanted to be in admin…And my case manager basically told me, "you can't do that, you have to do call centre", and I kind of felt bullied into saying yes (Job seeker, metropolitan agency).

As one job seeker explained, "there is a power imbalance. You have to do what they say".

Many front-line staff described the difficulty in balancing competing priorities; that is, the financial imperative to process clients as quickly as possible and their sense of what constituted a high quality service. This conflict was particularly acute in

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[7] Employment outcomes under the capped program increased by 18 per cent after the introduction of case based funding (ANAO,2008:6).

agencies where ECs were responsible for a large number of clients[8] or where management had embraced the Departmental view that employment outcomes are paramount.

> Management is interested in ticking boxes…to get payment. So for them it's the payment, and for me it's a person with a name…In DES it is all about forming a relationship…so it's been a bit of a juggle in terms of tossing up between whether I'm in the people business or whether I'm in the administration business (EC, metropolitan agency).

The financial pressure generated by the stronger emphasis on employment outcomes is exacerbated by changes in the contract around rewarding career development. In the past, as part of an agency's health check, information was collected on the proportion of clients in work and supported by the agency whose earnings were the same or better than at the last health check and compared to the national average. This information is no longer collected. Instead, the Department introduced the concept of current and future benchmarks where job seekers are assessed in terms of their current capacity to work and their future capacity "with intervention", with agencies only receiving the 13 and 26 week outcome payments if the client achieves their future benchmark. While the policy intent behind this change is laudable – to drive up the hours and wages of people with disability in employment – the chosen policy instrument is inappropriate for a large proportion of DES clients. While DES agencies are able to access funds through the Employment Assistance Fund to help job seekers sustain employment by funding modifications to the physical work environment or work vehicle, the emphasis on workplace modifications is of obvious benefit to job seekers with a physical disability, but are of little, or no use to job seekers with an intellectual disability or a psychiatric disability. Furthermore, some job seekers choose not to disclose the fact that they have a disability, so "what do you do about the client that says, 'no I don't want you coming into my workplace'…You are really trapped because you can't go and talk to the employer about it. You can try and talk to the person, but it is a set up for failure" (Staff focus group, inner metropolitan agency).

The lack of funding for effective and appropriate interventions and the linking of outcome payments to the achievement of future benchmarks rather than current

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[8] Caseloads varied from around 20 to 74. Inner metropolitan agencies generally had higher caseloads than outer metropolitan agencies or regional agencies.

benchmarks means, in effect, that the future benchmark (work capacity with intervention) is being treated as current capacity.

> So really what the assessor is saying is that within two years, if we give them assistance, they will get to 30 hours, but unless we put them in 30 hours now, we're not getting any money for it, so providing them a service is not good for the company and we will go down (EC focus group, metropolitan agency).

Staff are very much aware that, in many cases, intervention is not as simple as merely modifying the workplace. Capacity building can take months or years and, in the meantime, staff have to choose between pushing a client to take on more hours than they are presently capable of sustaining and getting an outcome payment, or working with the client to slowly increase capacity but not getting paid for that work because the hours are less than the client's designated future benchmark. Professional norms means staff are reluctant to "set clients up to fail", but financial pressures are hard to resist.

> What they did was take away a lot of money in the support and weighted it quite heavily on outcomes…What that means is we might see the perfect job for that client but it might be 12 hours a week and the [future] benchmark is 30. We really have to think, 'are we going to offer that job to that client or are we going to give it to someone else?'…In one or two years we might be able to move [the client] to 30 hours, so we would get what the government is wanting us to get, but we would be allowed to be professional and do it in the timeframe (Manager, regional agency).

> We just had one the other day, a guy that is working his current benchmark, but not his future. He basically said, "I can't work 30 hours. I'm here at 15 and that's it. I physically cannot do it…I'd love to work [more], but I can only work the 15 hours"…So we're not going to get any kudos for that because it's not 30, even though it's the right thing for them and it's their current capacity, we have to get them a job in the future capacity (Focus group of senior managers, inner metropolitan agency).

Clients were critical of a system that placed them under such pressure because "it makes you feel incompetent if you are put in a job you are not ready for", and confused by the inconsistency between Centrelink and DEEWR requirements, with Centrelink advising job seekers that "you don't have to work more than 15 hours even though you've got a future capacity of 30, you've got two years to get to your future capacity" (Senior Manager, outer metropolitan agency). ECs reported job seekers turning up and asking, "why am I here, Centrelink says I've met the requirements?" (EC focus group, metropolitan agency). The pressure generated by linking outcome payments to achievement of future rather than current work capacity places stress on front-line staff and clients.

> Try telling someone with a newly diagnosed mental illness who's still seeing his social worker twice a week that he's got to work full-time – "there you go mate, that's just so we can get money, thanks". It's not very nice.

> And they get stressed.
>
> Oh they do, and abusive (EC focus group, metropolitan agency).

Some job seekers deal with the pressure to increase their hours by exiting the program, leaving the service provider with no outcome payment and the client with no recourse to on-the-job support should difficulties arise in the future.

DES agencies have been placed under further financial pressure by inappropriate job capacity assessments and funding level decisions. The main cause of inappropriate assessments is the mismatch between disability and the professional qualifications of the Job Capacity Assessor. Staff pointed out that it was unrealistic to expect a registered nurse or an occupational therapist to be able to make an informed assessment of a client with mental health issues, even setting aside the difficulties involved in trying to establish a level of rapport in a brief initial meeting such that the job seeker feels sufficiently comfortable to reveal information about their disability and their work capacity. Job seekers also found it strange that "you go and see someone for an hour that you have never met before and they are meant to make a capacity assessment" (Job seeker, regional agency). Some job seekers are confused about the process – Centrelink just tells them to turn up at a certain time on a certain day – and they think they are participating in an interview where you have to present yourself in the best possible light. So when the Job Capacity Assessor asks the job seeker whether they can work 30 hours, the job seeker says, "yes" (EC focus group, metropolitan agency).

While the government has announced that from July 2011 all job capacity assessments will be done by appropriately qualified Centrelink staff (FaHCSIA,2010b), some DES staff remain unconvinced that this will solve the problem for the increasing proportion of job seekers who have a psychiatric disability.

> The government said, "we got it wrong so JCAs will go back to Centrelink to be done by experienced people". Yeah, that's great. But those people are not allowed to look at any history in Centrelink reports. They can only go on the information in the JSCI and the information the client gives them. Now the client…might be feeling good and doesn't provide an accurate picture of their condition. And what about the ones who are silent and don't say a word? Or don't have the money to have a treating doctor appointed to them?...JCAs need to give you a better idea of how you can successfully work with that client (Staff focus group, inner metropolitan agency).

The consequences of inappropriate assessments are job seekers assessed as being capable of working at a level above their actual capacity. Agencies are able to request

another assessment, but this is time consuming for the agency and stressful for the job seeker with no guarantee that a more realistic assessment will be forthcoming.

> I went with a client to a Job Capacity Assessment because he'd been knocked back three times – it went from one job capacity assessment of 15 to 22 hours, to the next job capacity assessment of 22 to 39, and he was terminal – he'll never get better. So then I had to intervene, [but] if our caseload gets too big we can't do it (EC focus group, regional agency).

As well as reporting an increase in inappropriate assessments, agencies also noted a sharp decrease in the percentage of Level 2 clients under the new contract. In the past, clients with higher support needs were designated Level 3 or Level 4 and attracted higher levels of funding than Level 1 or Level 2 clients. Under the new contract, Levels 1 and 2 were combined and the money averaged and this was called Level 1. Similarly, Levels 3 and 4 were combined and the money averaged and this was called Level 2. However all agencies reported a large number of what they saw as anomalies in funding levels under this system.

> We are finding a lot of Level 1s that should be Level 2s. They seem to be just lumping them into Level 1. And then you have got people who are Level 2 and you think, 'hm, don't know why they are in Level 2' (EC, regional agency).

If the number of Level 2s that agencies believed were really Level 1s were roughly equal to the number of Level 1s that agencies believed were really Level 2s, funding level anomalies would not be a problem. However, by far the majority of anomalies are clients with high support needs which in the past would have been assessed as Funding Level 3 or 4, being assessed as Funding Level 1. For example, data from one agency on the percentage of clients classified as Funding Level 1 and 2 reveals a steady decrease in clients attracting the higher level of funding (Funding Level 2) and a corresponding increase in clients classified as Funding Level 1 (see Table 6).

Table 6: Funding Level Trends March – October 2010

Month	% of clients at Funding Level 1	% of clients at Funding Level 2
March	18.6	81.4
April	23.6	76.4
May	25.3	74.7
June	35.2	64.8
July	38.5	61.6
August	41.1	58.9

| September | 43.1 | 56.9 |
| October | 42.8 | 57.2 |

This agency's experience is not an isolated example. Another agency reported a decrease of 300 Level 2s to Level 1s since the introduction of the new contract (CEO, regional agency), while another noted that in the past roughly 70 per cent of clients were Level 3 and Level 4, whereas "now it is getting close to reversing that figure" (Senior Manager, metropolitan agency).

When asked why they thought there had been an increase in funding level anomalies, staff cited problems with the funding tool itself as well as technical glitches. A range of different types of information are combined to generate what should be an appropriate funding level, but a number of staff believed the weighting given to different indicators are more relevant to mainstream job seekers than DES clients. For example, where a job seeker lives, or whether their parents are in work seems to have more effect on their funding level than a job seeker's disability (Staff focus group, metropolitan agency), or the questions in the JSCI are not sufficiently nuanced, particularly in relation to cognitive developmental disability, and are therefore unable to reflect individual or regional circumstances.

> There are 5,000 cancer tumors you can tick off, but other things you want to put down there are not listed (EC, specialist ID agency).

> The question about can they catch a bus. It is yes, but in our region our bus services don't go to a lot of the actual work areas. So they may be able to catch a bus but the bus doesn't go anywhere near their home, nor does it go anywhere near where they want to work (Manager, regional agency).

Changes in client circumstances can trigger an automatic change in funding level, for example, when a client gets a job their funding level automatically reverts to Level 1.

> We've had people that were placed into work having never worked in their lives and they'd gone to Level 1. There are still lots of issues with the funding tool (Senior Manager, regional agency).

Finding employment is, to a certain extent, predictable, but other changes seem totally arbitrary.

> We had a staff member who changed an e-mail address of a particular client and when she did that the client dropped from a Level 2 to a Level 1. Now that is a technical glitch (CEO, regional agency).

While the government has recognised the prevalence of these sort of "technical glitches" and have told providers that "they have fixed those sort of problems" (CEO,

regional agency), the anomalies resulting from inappropriate or insufficiently nuanced questions remain. Prior to this contract, front-line staff had greater input into funding level decisions through the Disability Pre-employment Instrument (DPI) and the Disability Maintenance Instrument (DMI) and while this could be seen as a conflict of interest, "we had to have evidence…I think those DPIs and DMIs were well substantiated' (Staff focus group, regional agency).

Whatever the reason for these funding anomalies, as a result, agencies have experienced a significant drop in income under the new contract. For example, one agency calculated that in the 12 months from October 2009 to October 2010, average income per client had decreased by 35 per cent (Staff focus group, metropolitan agency). As with inappropriate assessments, agencies are then forced to cover the cost of providing the additional support they believe the client needs while trying to get the funding level changed, or reducing the level of support to match the funding and run the risk of the client failing to sustain their employment.

The lack of fit between the funding tool and the circumstances of DES job seekers is echoed in other parts of the contract because the model underlying contract provisions - where job seekers are assumed to be on a linear path where barriers to employment are progressively and permanently overcome - does not work well for job seekers with an intellectual disability or job seekers with mental health issues. The experience of both these client groups is more episodic than linear. For example, staff who work with job seekers with an intellectual disability commented that,

> with our guys it is never fixed…it just doesn't go away. At best you are managing it, at worst you are not (Team Leader, specialist ID agency).

Staff also noted the difficulties job seekers with an intellectual disability have in separating their work and non-work lives.

> If something bad happens at home, something bad is going to happen at work, so you have to keep over the top of all that and there is no funding for that…If we don't pay attention to home issues, they won't be at work for much longer because they will say [something inappropriate] or do [something inappropriate] or just stop going (Team Leader, specialist ID agency).

Similarly, staff with experience of job seekers with mental health issues talk about "the 12 week cycle" where clients gain employment, but around 12 weeks experience an episode where more intensive support is needed before the client's situation stabilizes once again. As staff working in a specialist mental health agency noted,

a relapse of mental illness can happen at any time…[so] for us who are specializing in mental illness, it is hard for us. If a client loses the job because of a relapse, then you have to go back to the beginning…It looks like the whole program has been done on a general idea, a summary, an average…Not looking at the different streams of disability and the different disability needs (EC focus group, specialist mental health agency).

Under the previous DEN contract, staff were able to keep a job open until the client felt able to return to work. Under the new contract, rules around available breaks were tightened so that agencies are not able to keep a job open for more than four weeks. If an episode occurs just before a client reaches their 13 week milestone and the client is off work for more than four weeks, even if they have a medical certificate the agency does not receive their 13 week outcome payment when the client returns to work – "you lose the lot [and] have to start again" (Staff focus group, generalist metropolitan agency).

Similarly, under the new contract, it is harder for agencies to accumulate periods of employment in order to reach a 13 or 26 week outcome. While the rationale behind this tightening of the payment structure is clear – to encourage sustainable employment – once again, a model of engagement that rewards a sustainable job rather than sustainable attachment to the labour market does not suit all job seekers.

[This contract] does not recognise that for young people with disabilities often their first job is a challenge and it more part of a process that they need to go through to learn about work. We know that a lot of first jobs are not going to be long-term successful – I think that was recognised before and it is not recognised now. So that is another example of how the system does not fit our client group (Staff focus group, metropolitan agency).

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). Participation in paid employment is an important means by which individuals can reduce their risk of social exclusion, but social exclusion depends on more than participation in the labour market and in the past, DES agencies saw their role in this broader context. The importance of taking this broad view of what constitutes an "outcome" is clearly illustrated by the experience of clients such as Stuart who has been with the same DES agency for 20 years and with the agency's support has a job, his own unit, holidays which he organises himself, but still needs to feel connected to and supported by the agency because "we're the only people he's got." As the CEO of the agency explained,

> [h]e has his independence, he's been a Ward of the State forever, he's still under an administration thing. He just needs to know that he can send me a Mother's Day card or come in and give the girls flowers (CEO, metropolitan agency).

Well aware of the importance of the wider social inclusion context for many DES clients, staff expressed concern that the increased focus on employment outcomes and associated financial pressure is reducing their capacity to deliver on social outcomes which are equally as important in fulfilling the government's Social Inclusion Agenda as direct employment outcomes.

> I really believe the block grant funding for voluntary clients is the only way to go because then you are reaching the social inclusion outcome and the employment outcome. My understanding of the contract is employment, but also getting people into the community – that's your social inclusion – but you don't get paid for any of that (Staff focus group, inner metropolitan agency).

> I'm thinking of having some tea groups myself. Social inclusion. There are people who need contact with other people…What price someone feeling they've made a friend when they're alone? What price is that? Well we won't get paid for that, but if you want to get them employed, you want them to feel good in the world (EC, metropolitan agency).

Some agencies do provide social activities for clients, such as sausage sizzles, or a Christmas party, or if there is no money for even these modest activities, staff do what they can to establish a relationship with clients as an individual while they are in the office, which clients appreciate and come to expect.

> We had a new case manager come over from JSA…and 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).

The EC went on to explain that it has taken the new case manager two months to get away from the processing mentality that characterises JSA where ECs commonly have caseloads of 150 job seekers, and observed that, "she was a good case manager in JSA – lots of placements – but it doesn't quite work in the same way in DES". Front-line staff in other agencies made similar observations, noting that work practices have had to change in response to the new contract and while new clients accept the more impersonal, process-oriented approach, clients who have been with the agency for a number of years are not happy.

The inability to work in a more holistic way addressing wider social inclusion goals as well as direct employment goals is one of the reasons why many experienced staff are leaving the sector.

> They are not moving between providers, they are going to work for the more welfare-based socially holistic organisations that are still providing that type of service. A lot of people are moving into government health organisations…This is unfortunate because they are not going

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to come back (Senior Manager, metropolitan agency).

Such staff chose to work with disability employment agencies because they believed that people with disability have abilities and can make a positive contribution to a workplace and to society. Being part of a system that constantly focuses on what clients can't do in order to justify initial or continuing funding levels "is demoralising [and] quite damaging…The damage that is being done to employer commitment and staff commitment by this deficit model is inappropriate" (Staff focus group, metropolitan agency).

Added to the loss of experienced staff is a high turnover of ECs and support workers (front-line staff).

> Last contract we were reasonably stable, but 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).

Employment consultants or support staff who have been working in these direct support roles for 12 months or more are now considered "veterans". High case loads, the pressure to find work for clients who are not job ready, complex contract requirements, constantly changing guidelines, and a heavy administration and compliance load all takes its toll, none of which is compensated for by high wages. As a senior manager in a regional agency remarked,

> a client works in Target and gets more money than one of our workers…It is a very hard thing to retain workers when they can go to Target and remove that stress. I can walk in, and walk out at the end of the day and not be thinking of anything and I get more money.

Award rates in the community services sector have always been low, but 20 years ago "the second job for a mum was a carer…[now] it is a career choice, but we don't get the money to pay that career choice" (CEO, metropolitan agency). Staff turnover varied, with some agencies experiencing very low rates of turnover (zero to 20 per cent), and others struggling to cope with turnover rates of 60 per cent, but even agencies who have not experienced very high rates of turnover acknowledge the negative impact the new contract has had on staff.

> We went into this contract excited about the new opportunities…But I just take a scan of the room and look at people's eyes…It feels like a war almost (CEO, metropolitan agency).

Agencies try to reduce staff turnover or maintain relatively low levels of staff turnover by reducing the pressure on front-line staff, for example, by creating team leader or management positions to support and mentor front-line staff, "so they don't feel like

they are left alone, like there's no-one there to help them" (Team Leader, regional agency), or by reducing caseloads. One agency has already reduced caseloads from 35-40 to 25, and another agency is working towards reducing existing caseloads of 20-25 to 15. Other agencies supplement low wages with benefits such as a company car, and mobile phone and allow staff to salary sacrifice, or provide support to staff wishing to gain professional qualifications, or provide opportunities for staff to attend conferences or refresher training. An EC working in an agency that offers a wide range of benefits said what makes a big difference to her is management being flexible when personal circumstances means she has to leave work early and work from home if need be. One regional agency uses its strength – a collegiate model of working – as a way of helping staff manage work-related stress, combined with a restructuring of internal groupings, "so the program group that meets solely for DES can work through those DES problems and case review together and troubleshoot…because it can be really hard if you are sitting with someone who's got this funding model that is really flexible, and you don't have that flexibility – you get frustrated rather than finding a solution (Manager, regional agency).

3.3 Less red tape and a flexible, individualised service

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). 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 the new contract to be more prescriptive and inflexible, not less, to the extent that it compromised their capacity to deliver a flexible, individualised service and administration had also increased.

> The other thing that's changed recently is the amount of admin. The on-line admin is just absurd – 70 to 80 per cent of our time is meeting DEEWR's reporting requirements – its just ridiculous (Manager, inner metropolitan agency).

> For [ECs] there's additional admin because the system is so complex now, and unfortunately we promised them all this amazing system, no more DPI, you'll have more time to go out and get jobs, and…DEEWR didn't deliver on that promise (Senior Manager, outer metropolitan agency).

Without exception, staff described the on-line ESS system as "not user-friendly". The ESS system is based on what is used in JSA and many staff commented that simply "bolting DES onto JSA" does not work.

> Our understanding is that ESS was the program that they developed for the JSA and they've tried to overlay that onto DES and some parts of it are very good…However there's also a lot of admin processes in the system that aren't appropriate for DES. They may work fine in JSA, but they certainly don't work for us (Senior Manager, outer metropolitan agency).

Staff who had worked with the previous on-line system (EA3000) commented that with the ESS system completing routine tasks involved more than twice as many steps. EA3000 was "much, much simpler" because it would generate a list of all the potential payments that an agency could claim on a particular day, whereas in ESS the payments are broken down by payment type so staff have to be aware of all the different payment types and check each type – a time consuming process if an agency wants to check all payment types across all of its sites (Administration Manager, metropolitan agency). Similarly, with ESS it is impossible to check information by information or program type. Staff have to click onto each client to check, for example, whether every EPP in the agency is up-to-date. "You can't just click onto EPPs…I find this quite tedious" (Administrative Assistant, metropolitan agency). Processes, such as job placement, which under the old system were very quick, have become much more time consuming because of increased compliance requirements.

> This whole job placement thing where you have to put in a vacancy, refer a job seeker to the vacancy, anchor the job, take a job placement fee, one of the problems is that you actually need to get a lot of information…[and] it is often quite difficult to get all that paperwork signed off by the time they start work…[So] we're two weeks into our outcome before we've even got the job entered [which] means it takes us 15 weeks to get a 13 week outcome (Senior Manager, outer metropolitan agency).

Some agencies noted that under the new contract service provider agencies are required to collect information that previously had been collected by the Department. Staff also noted that they had to constantly monitor and check client details in ESS as clients could disappear off the system, or funding levels or benchmark hours change.

> We have to check more things. A lot more things apply to us now (Administrator, metropolitan agency).

> [If] I've had a couple of days off…[when I get back] I have to spend one, if not two days…going through every client and every assessment to make sure I'm up to date with where everyone is (EC, regional agency).

> The hardest part of the job should be getting the right job seeker into the right job and sustaining them in that job…We find that is the easy bit compared to putting it in the system and monitoring it in the system (Manager, outer metropolitan agency).

ECs felt under pressure to devote time to data entry and monitoring client details because they were well aware of the fact that failure to do so could result in their agency missing out on payments. For example, if a client is placed in a job, but in the meantime the client's benchmark hours have increased, the agency will not get an outcome payment for that client. Similarly, if a client's funding level has increased the agency has to make an application to have their payments for that client increased – if funding levels decrease, the system automatically adjusts payments downwards. Constant monitoring is also required because there are time limits within which agencies can dispute assessments and as discussed in section 3.2, this contract has brought about a noticeable increase in inappropriate assessments.

Keeping up-to-date with constantly changing guidelines places additional pressure on ECs or administrative staff.

> There are so many guidelines. At least every week or every two weeks there is something different. So you have to go back and check to make sure you are reading the latest version (Focus group of administrators, metropolitan agency).

Constant vigilance is also required because even DEEWR contract managers are not always on top of all the contract complexities and can incorrectly change payments, for example, from a Level 2 to a Level 1 (CEO, metropolitan agency). The quality and timeliness of Departmental support is variable, with some agencies reporting very helpful contract managers where "issues get solved immediately" (Staff focus group, regional agency), while others said they had to wait weeks or months for queries to be resolved.

> One problem that I sent to them took two and a half months to be fixed…I thought that wasn't too bad (Manager, regional agency).

> I have terrible luck trying to get hold of DEEWR…Maybe after three or four weeks I'll get a reply…I don't know, it find I very hard…to get any information out of DEEWR most of the time (EC focus group, regional agency).

Time taken to resolve an issue is even longer if the query has to be referred to the National Office in Canberra. However, the most trenchant criticism was reserved for contract managers or help desk staff who tell agencies to "check the guidelines" when they ring up with a query, or pass the buck, telling agencies to ring another part of the Department or Centrelink.

> I had DEEWR and Centrelink on a conference call together where they were sending me backwards and forwards. I said, "stop, both of you talk to each other. This is the problem, one of you is going to solve it. Don't send me here and there and everywhere else" (Manager, outer metropolitan agency).

Many agencies have responded to the increase in administrative complexity by hiring additional financial or administrative staff. In other agencies, managers or team leaders have taken on the role of assisting ECs manage the system and now spend around 45 per cent of their time "getting their head around the intricacies of the rules and monitoring the system" (Senior Manager, regional agency). In agencies where ECs retain responsibility for entering and monitoring information on ESS, they estimate that at least 50 per cent of their time is now taken up by these administrative tasks. Consequently ECs with an average caseload of around 30-35 clients no longer have time to do more than the bare minimum.

> 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).

> My biggest problem is staff wasting so much time chasing up paperwork that they're not actually doing training and what they should be doing with their clients. To anchor a job we need a Job Start Verification and we need these first two pay slips in the first two weeks. If one pay slip is missing, then we need an Employer Verification for that one week. For the first 26 weeks we have to cover every one of those pay slips or other appropriate documentation to cover it up and they're wasting so much time chasing all of this, they're not actually doing what they should be doing (Manager, metropolitan agency).

Clearly, agency capacity to provide a flexible, individualised service has not been enhanced by this contract.

An agency's capacity to provide a flexible, individualised service has also decreased because of the prescriptive nature of the contract. Staff dislike the fact that under this contract the Department is, in many instances, specifying how they will achieve employment outcomes without sufficient understanding of the nature of different types of disability. In particular, staff identified the requirement for fortnightly meetings and the requirement to review and update a client's Employment Pathway Plan (EPP) every fortnight as major obstacles to the provision of a flexible, individualised service.

In the past, staff had the autonomy to decide how often they would meet with their clients, so that when clients were going well they were able to make contact every month or so, but at other times, when job duties changed, or there was a crisis in a client's personal life which affected their work life, staff had time to provide more intensive support. Staff felt the requirement to meet with each client every fortnight regardless of their circumstances meant that, at times, were just going through the

motions – just "tick all the boxes DEEWR wants us to tick so…the organisation won't get rapped over the knuckles" (EC, regional agency). Some staff believed the requirement for fortnightly meetings meant staff were able to assist fewer job seekers because they were spending so much time in unnecessary meetings with clients (Manager, metropolitan agency), and clients also queried the value of turning up every two weeks just to look for jobs in the paper – "I can do that by myself at home".

Similarly, the requirement to review and update a client's EPP each fortnight is seen as unnecessary. Staff explained that clients with an intellectual disability may be moving forward, "but very, very slowly", and may take 18 months or two years to achieve their goal. For these clients, "what is the point of putting stuff in saying, 'we are going to do this, or going to do that' [just] because it looks nice, it looks like you are helping?" (EC, specialist ID agency). Even with other clients, "a lot can happen in a fortnight, and nothing can happen" (EC, regional agency). If nothing has happened reviewing an EPP becomes another 'tick the box' type exercise, using up time that could be spent more productively. Again staff would like the flexibility to determine, for each client, when it is necessary to update their EPP which would help meet the goal of flexible, individualised service.

Even where the Department has made changes designed to increase agency capacity to respond to individual needs, for example, with the introduction of a 70 per cent loading for clients with a moderate intellectual disability, compliance requirements makes it difficult for agencies to claim the additional payment. With the exception one specialist ID agency, no other agency had received the ID loading because of the requirement to provide evidence that a client's IQ has been assessed as less than 60. As a manager of a generalist regional agency explained, "you have to have evidence that they've got that IQ…but we can't get somebody in this area to do an IQ test because the tool to buy it is about $5,000 so a lot of psychologists don't have it". A specialist agency located in a capital city reported that they had not seen any of the additional ID money because Centrelink was arguing about releasing the signed statement which sets out the clients' IQ.

The same pattern emerged in relation to educational outcomes where the usefulness of the initiative is diminished by the restrictions placed on claiming a payment for an educational outcome.

> Julia Gillard is very big on education and she's certainly been flying the flag about skilling the country, starting with people with disabilities obviously, but the way they have designed the contract, it's almost impossible to deliver, there's too many hoops you have to jump through (Senior Manager, outer metropolitan agency).

Educational outcomes only apply to courses that are delivered over two semesters and many DES clients are more interested in doing shorter, more practical courses, such as work related certificates or licences, or TAFE courses which run for six months (one semester). When staff in a metropolitan agency looked at all the courses offered at the nearest TAFE, they identified 17 out of 499 courses that might be of interest to their clients, and of those 17, some were being "crammed into a semester and a half, so they don't qualify anyway" (Senior Manager, outer metropolitan agency). Even if a client is interested in undertaking a full-year course, some clients expect agencies to fund or subsidise training courses and then "as soon as they go into that course they get suspended by Centrelink…so we have no way of making sure they are actually attending the course…and at the end of a year of us getting no income, we'll get an education outcome if they attended every day" (Senior Manager, outer metropolitan agency). Under these circumstances, the conclusion that "there is not much incentive to claim an educational outcome – there is no money in it" (CEO, metropolitan agency) is understandable.

However clients appreciate receiving assistance in accessing educational outcomes. For example, a young man who is planning to start a retail services course in 2011 said,

> I wanted to do a TAFE course for such a long time, but didn't know how to go about it. [Agency X] has been able to help me…I get confused very easily but [Agency X] explains things in a way that I can understand.

Agency staff expressed frustration that they could spend $30,000 modifying a work site once a client has a job, but "we don't have extra funds to pay that grand for that course. These clients can't pull that money up and that's I think a hard thing" (Manager, metropolitan agency). A manager in a specialist ID agency agreed saying more of her clients could participate in education if agencies were in a position to provide the sort of support given to clients in paid employment.

> The workplace modification program only applies to employment. If they were in employment we could buy them little spell checkers, we can get a [dictation software]

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> computer program, but if you are in educational training, there is no money attached to it. You can't go and get the technology assistance that these individuals need to complete the courses (Senior Manager, specialist ID agency).

Although TAFE and trade schools are supposed to have their own programs in place to assist students with disability, staff see very little concrete application of policy rhetoric, with fully supported TAFE courses in a wide range of trades not offered unless enrolments reach a certain minimum number (EC, metropolitan agency). Consequently, clients often struggle in mainstream courses to complete their educational qualifications.

> A lot of our guys would love to do apprenticeships…[and] they might be able to do the first year and the second year, but by the time they get to the third and the fourth, that is when they start to fall over…They are struggling with the learning path because they were struggling with that in school. Trade schools don't provide enough of that disability emphasis to say, 'you can do it verbally', or 'you can do it using assisted technologies'. So we don't have a lot of success with that (Senior Manager, specialist ID agency).

A client of a regional agency who had completed TAFE courses "off her own bat", agreed that educational institutions are not necessarily sensitive to the needs of students with disability. For example, this client developed pressure sores from sitting in her wheelchair all day because TAFE did not allow her to complete the work experience component of her traineeship on a part-time basis.

As part of the new generation of employment services, the government established a $41 million Innovation Fund designed to encourage innovative employment and training solutions for disadvantaged job seekers. DEEWR received 189 applications for funding in the first round, of which 33 (17.5%) were successful (total funding $19.4 million). 149 applications were received in Round 2 of which 13 (8.7%) were successful (total funding $5.2 million) The government's enthusiasm over this new initiative was not shared by everyone in the sector who felt removing restrictions around how agencies achieve outcomes would do more to encourage innovation than simply establishing a separate pot of money, pointing out that the government wanted not-for-profit service providers to be innovative in the way they delivered services, yet "the more prescription there is in the contracts, the less innovative we can be" (CEO, regional agency). Other agencies agreed that the new contract "is so prescriptive, it restricts that level of innovation" (Senior Manager, outer metropolitan agency), pointing out that while there is scope to deliver a good service under the DEEWR contract, "they are reasonably prescriptive. Even when they're talking about being innovative, they are prescriptive. They say, "you can be innovative here and

here", or "you can respond to community needs in these areas, but not over here" (CEO, outer metropolitan agency). Agencies noted that, in the past, there was more scope to be innovative whereas under this contract, innovation often means finding ways around prescriptive and inflexible guidelines.

> We've got someone here that we knew, if she became physically active, that her pain would be better…and she would probably succeed in a placement, but we couldn't justify it. Like there was no way DEEWR would ever accept it. "Why are you going to pay for her to get a membership to a swimming pool? That has got nothing to do with getting a job." So we paid for a physio assessment and got the physio to recommend that water therapy would be beneficial…[but] we shouldn't have to go through that. We should be able to identify that it's needed and then do it (Manager, regional agency).

Where agencies were introducing new methods of working with clients or providing new services, these initiatives were not supported by additional government funding. For example, when agency staff noticed that many of their clients were not physically fit enough to maintain their employment, "we got them into the Gym Buddies Program and got some funding through Australian Youth Foundation…and we took them through a fitness program with a personal trainer" (CEO, outer metropolitan agency). The CEO noted that personal trainers are great because they are continually providing positive feedback – "that was good", "oh you did that so well" – and would like to provide these sort of programs where people who have been out of the workforce for many years are able to participate in an activity where they receive "lots of positive feedback…because it does so much for their self-esteem…but it is quite tricky because if you pull your manpower off to do that…properly, then initially you are going to go down [in your star ratings]".

3.4 Compliance with Disability Service Standards

The level of compliance activity required by DEEWR is not a new issue. A 2008 Audit Report on Disability Employment Services noted that "DEEWR's approach to contract compliance, particularly when overlayed with quality assurance activities managed through FaHCSIA, risks duplicating activities and increasing the administrative workload on service providers" (ANAO,2008:12). All DES agencies are required to comply with National Disability Service Standards and are audited by independent quality assurance auditors to ensure compliance and the issue of duplication of compliance requirements and increased administrative workload remains.

However staff were more concerned about tension between Disability Service Standards and their contractual obligations under the Deed which means that "our workers 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). This tension or conflict arises from the contract's pre-occupation with outcomes – getting people into employment – whereas the Service Standards are more concerned about the quality of the service received by clients (Focus group of managers, inner metropolitan agency).

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 Service Standards Working Party, 1993:11). As noted in section 3.1, the number of DES clients who are obliged to participate in the program has increased since March 2010 and some staff believe that mutually obligated job seekers "have no rights at all really" (Manager, inner metropolitan agency). Staff also cited the fact that clients referred to a program by Centrelink cannot choose to go to an agency that is over the other side of the city from where they live because "this contract divides everything up into ESAs and you can only help people in your ESA" (Senior Manager, specialist ID agency).

While debate about whether it is legitimate to make rights conditional upon rights-holders undertaking certain activities continues, staff were particularly concerned about situations where lack of choice placed clients in situations that they found distressing and/or exacerbated their disability. For example, an agency reported that a client became distressed as a result of having to attend an interview. The agency provided on-going counseling and worked with the client one-on-one to increase her confidence in interview situations, but "quality assurance auditors were horrified that she, that very day, was attending another interview. She didn't have a choice, unfortunately" (Senior Manager, metropolitan agency).

While the client who became distressed during the interview chose to remain in the program, some clients choose to exit the program rather than undergo obligatory assessments, which have increased under the new contract. For example, clients who have found a job and are receiving post-placement support are required to undergo an On-going Support Assessment (OSA) every year to determine their support needs for the following 12 months.[9]

> I had a client drop out of this program – and he didn't want to drop out – but he was afraid of the questions the On-going Support Assessor might ask…They were very, very personal and he was absolutely terrified…So how is that respecting his rights? He couldn't say, "no I don't want to do [the OSA] but I still want to remain in the program" It was either or (Team Leader, specialist ID agency).

Other staff agreed that the program had become a lot harsher – "they come to a place like this, they are intimidated, they are frightened, its too rough for them and we're taking away their options" (Manager, inner metropolitan agency). Staff commented that it was not unusual for some clients with particular forms of mental health conditions to become very anxious or stressed when told that they are required to give their pay slip to agency staff as evidence of hours worked. The clients did not understand the rationale behind this requirement, interpreting it as another reason to feel paranoid or anxious.

In this environment some clients resign themselves to losing control over their life (EC, inner metropolitan agency). For example, a client with a law degree said she finds it difficult to understand Centrelink requirements because they send letters that seem to be contradictory. Consequently, she agrees to whatever Centrelink requires. Others clients resist, for example, refusing to sign their EPP or documentation stating hours worked, which creates problems for agencies trying to assist them.

> With the increasing level of mental health clients we have there is definitely an increased demand from clients that they do not disclose and that we do not disclose, which makes it very hard for us to get time sheets – we can't talk to employers (CEO, regional agency).

Agencies need confirmation of hours worked so that the job can be anchored on the ESS system and, after 13 or 26 weeks they can receive an outcome payment. Similarly, if clients refuse to sign their EPP, the agency can't commence the client, which impacts on the agency's star rating and means they are unable to claim a service fee, "but the client will still be fronting up for meetings and we are still

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[9] Previously this was done by agencies through the DMI. While under the contract individuals have the right not to be involved in the OSA process and to be represented by an advocate some clients may feel so stressed by the thought of the process that they prefer to exit the program.

delivering the service" (CEO, regional agency). Under these circumstances, it is not surprising that many agencies identified tensions between meeting the Disability Service Standards and the needs of the client, and remaining financially viable.

Compliance requirements are not the only source of tension between the interests of the client and the financial interest of the agency. The highly prescriptive contract generates further examples, such as rules around accumulating periods of employment.

> There 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).

For example, if a client resigns from a job, an agency has five working days to find the client another job and be able to put both jobs together to count towards a 13 or 26 week outcome. However, if a client is dismissed, agencies have 20 working days to find the client another job. A CEO of a metropolitan agency described this rule as "bizarre". Historically, if a job was not working out, the agency worked with the employer and the client so that the client resigned rather than being sacked.

> [Now] it is in our interest to have the person dismissed because we have a much longer time to get them another job and be able to put those two jobs together to get the outcome payment. But it is not in the client's interest to have a dismissal on their resume. So you end up with two quite conflicting drivers (CEO, inner metropolitan agency).

As well as benefiting the client, working with both the employer and the client means that the relationship with the employer is maintained and the employer is much more likely to employ other DES job seekers in the future (CEO, inner metropolitan agency).

Given that the increase in mutually obligated clients has brought with it an increase in the number of angry and aggressive job seekers being referred to DES agencies, there is now a conflict between staff security and a client's right to privacy.[10]

> A few years ago clients had a right to complete privacy and interviews were conducted in closed interview rooms. Yeah, I don't think so now. You can't be shutting doors now, it's dangerous (Focus group, metropolitan agency).

As noted earlier, staff identified a source of the tension between the contract and Disability Service Standards as a matter of quality. A clear picture of how job seekers

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[10] Under the National Standards a person's right to privacy and dignity in all aspects of his or her life should be recognised and respected (Disability Service Standards Working Party,1993:12).

define a high quality service emerged from interviews and focus group discussions. The vast majority of job seekers[11] value economic outcomes – getting a job – but they also value emotional outcomes – being treated "as a person, not a number", being treated with respect and listened to. Job seekers value agencies that take the time to "listen properly to what you require" and don't just "put you in a job, any job." As one job seeker put it,

> People should be treated as people – they have the right to choose.[12]

Job seekers were very appreciative of agencies that were still able to spend time getting to know them, as opposed to other agencies where "they didn't want nothing to do with you" and "put you in a corner", but critical of a system that they described as "not user-friendly".

> It is getting way too complex, particularly for clients.
>
> The system…makes life even harder for people who already have difficulties.
>
> Why should people who want to work be hurt because of the minority who want to abuse the system? Everyone is put in one box.

Job seekers also identified an erosion of what they characterised as a high quality service. Clients who had been in the system for a number of years commented on the lack of flexibility in the current contract, noting that "the old system was better". Now "there are more rules" and less individualised service – "more group work". The high level of staff turnover in many agencies also impacts on job seekers who do not like having to tell their story to a different EC every three or four months. Clients were also critical of the need for constant assessments and re-assessments;

> This is regressive what they are doing. They need a flexible support system that allows support to go up and down. This is just creating more work, more paperwork. I think they have to trust the employment consultants…that they are providing appropriate assistance (Job seeker, inner metropolitan agency).

3.5 Impact on employers

Staff and job seekers noted that there is still a reluctance within the community to employ a person with disability. Higher wage subsidies for other types of job seekers

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[11] ECs admit that there is a small percentage of mutually obliged clients who do not want to work. Often these clients come from families where there has been an intergenerational transfer of poverty and disadvantage and their aspirations have shrunk to the extent that they do not believe employment is possible.

[12] This finding is consistent with other Australian and international studies. See Nevile, Ann (2008) 'Human rights, power and welfare conditionality', *Australian Journal of Human Rights*, vol 14, no 1, pp. 1-20 and Nevile, Ann (2009), 'Values and the Legitimacy of Third Sector Service Delivery Organizations: Evidence from Australia', *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, vol 20, issue 1, pp. 71-89.

(for example, job seekers who have come to the country as a refugee) make it harder to persuade employers to take on DES clients. Employers know they can employ a job seeker in a different program to do the same job and get a much higher wage subsidy. Staff felt that the government should not expect employers, particularly small, family run businesses which in many areas make up the bulk of DES employers, to employ DES clients "out of the goodness of their hearts".

Consequently staff have to work hard to cultivate and maintain relationships with local employers. It is not in their interest, particularly in smaller regional areas where everyone knows everyone, to put forward a job seeker who is unsuited to the type of work on offer. Staff commented that a good experience will lead to "repeat business" and word of mouth meant that more employers might be persuaded to employ DES job seekers. Word of mouth also meant that a bad experience not only destroyed the relationship with the individual employer, but also made it harder to persuade other employers to take on DES job seekers. Staff were therefore concerned and angry that the prescriptive, inflexible nature of the current contract was damaging social networks carefully cultivated over many years.

> It is really hard for our guys to find employers willing to take on clients, let alone try and get repeat business from them when you have the government harassing employers. Not a really good situation at the moment (Senior Manger, specialist ID agency).

Staff providing post-placement support try to minimize their footprint on the work site, disrupting normal work patterns as little as possible. The requirement for yearly on-going support assessments, together with a lack of co-ordination between on-going support assessments and supported wage assessments, has led to an increased presence of outsiders on the work site, not all of whom are as sensitive to the needs of employers as agency staff.

> I have had complaints from employers saying they were not sure what was going on. They had a call from somebody and they weren't sure whether it was a supported wage assessor or an on-going support assessment – that wasn't clarified to employers (Marketer, regional agency).

As noted earlier, some clients become extremely stressed at the prospect of having to undergo an OSA, which can lead to a number of aborted attempts to conduct the assessment before it is successfully completed – a process that is time-consuming for the employer and DES staff as well as stressful for the client.

> We had to do an OSA four or five times because the client was so overwhelmed. "Am I going to lose my job? Are they checking up on me?"…Twice nearly got to the thing, "no, she's

unwell", got to come back (Staff focus group, metropolitan agency).

On-going support assessors are now able to do supported wage assessments. Staff commented that experienced assessors who had been in the sector for 20 years "are great" but less experienced assessors may not understand how to conduct supported wage assessments.

> A young girl, new to assessing, was doing a supported wage assessment, but didn't know how to set the rate, so she set up a race between the client and their co-worker and said, "ready, set, go!" That was an absolute disaster…The employer went berserk because they were already annoyed that the assessment had to be re-done after the previous assessor resigned and didn't submit the paperwork (Staff focus group, inner metropolitan agency).

The relationship between employers and agencies is also strained when changes are made to the hours clients are required to work so that the agency can claim an outcome payment. When changes occur, agency staff have to go back to the employer and renegotiate hours and wage subsidies (Marketer, regional agency). Employers who try to do the right thing by their employees by letting them go home when they are finding it difficult to work their full number of hours are also caught by rules concerning allowable breaks. For example, if a client is unable to work the required number of hours for a certain period of time, employers do not receive their wage subsidy and agencies do not receive their 13 week outcome payment. As one staff member put it:

> It is not just as easy as extending it anymore. [The contract] is a bit of a nightmare…It is very 'this is how it is going to be'. There is not a lot of flexibility. There used to be a little more flexibility. Not that you used the flexibility to do the wrong thing, but there was a little bit more flexibility to take in the reality of individual lives and what happens. This contract is hard (Marketer, regional agency).

The following section discusses similar State funded programs, but ones which are characterised by lower levels of control and competition and higher levels of trust and collaboration.

4. Transition from school to work

One of the features of the new Disability Employment Services was providing assistance as early as possible, including for school leavers, to ensure a successful transition to work. Under the CSTDA, individual States and Territories retain responsibility for formal transition programs designed to provide a pathway between school and open employment. Consequently arrangements differ across Australia with some States funding a formal transition program, while in others, agencies do what they can by conducting information and outreach activities in schools, but no formal, structured program exists which is available for all young people with disability. The Transition to Work (TTW) program, funded by the NSW Department of Ageing, Disability and Home Care (ADHC), is a non-centre based, individualised program to assist school leavers develop their life skills and become job ready. Under Transition to Work, in 2011 agencies received $18,666 per client per year for two years, with the possibility of a six month extension if the participant is almost ready for work at the end of the two years. Unlike DES, the type of assistance provided by agencies is not prescribed by the funding department and agencies with experience of both programs appreciate the ability to offer truly individualised assistance which can focus on "soft" skills as well as "hard" employment outcomes.

> [T]he Transition to Work model, I see that as allowing us to do the old DEN thing…[when] you got block funding and you could work with the people with real high support needs and get them into eight hours of job, do really good job support and they had a much better quality of life than being at the time in the old sheltered workshops (Senior Manager, outer metropolitan agency).

> Transition to Work is very different because the hours are there and…we are able to be as flexible as we need to be…[In] Transition to Work we will build on literacy skills and numeracy skills…[W]e try and get as many and varied work experience placements as we can…We have the time and ability to assist with driver education, budgeting, independent travel training (Senior Manager, regional agency).

Under Transition to Work, agencies are funded to provide 18 hours of support a week and staff/client ratios are much lower than in DES. For example, one metropolitan agency which has relatively low caseloads in its DES program (around 15-20), operates its Transition to Work program on a 1 to 5 ratio, with 10 staff assisting 50 TTW participants (Senior Manager, metropolitan agency). Furthermore, reporting requirements are "nowhere near as on-going or constant as the DES ones are" (Senior

Manager, regional agency), which means more staff time and resources can be directed towards direct service delivery.

However, agencies are critical of the lack of integration in the program, believing it should begin when the young person is still at school, and should be provided by an open employment agency which has the expertise to assist people find and maintain open employment, as well as making it easier for participants make the transition to DES services if, after two or two and a half years, they are still looking for open employment.

> During the end of the program, we'll start getting them a bit more familiar with the DES staff…We'll have our guys that are pretty independent attend the [DES] Job Club to get those skills as well, and they interact with the older DES clients and they get some ideas and advice (EC TTW program, inner metropolitan agency).

The type of integrated model identified by agencies in NSW (and other States) can be found in South Australia in their School to Work program. The program is funded by the South Australian Education Department and Barkuma as the co-ordinating agency.[13] The program runs for 12 months and takes place in the last year of high school, which could be Year 12, or earlier. After an initial selection process by one of the co-ordinators to determine an individual's suitability for the program and gather initial information on their support needs and career aspirations, participants are divided into groups based on regional access and mix of support needs and halfway through term 1 attend TAFE one day a week for 15 weeks to complete an employment related qualification – the Introductory Vocational Education Certificate (equivalent to a Certificate I in Industry Skills in the NSW system). This Certificate becomes part of the student's school curriculum.

Towards the end of the first 15 weeks, co-ordinators help participants decide what sort of education and training qualification they would like to do at TAFE and access their chosen course. Study for that course takes place during the second half of the school year. At the same time, co-ordinators organise work experience in the industry identified by participants and help participants choose a disability employment service provider who will work with them once they leave school. The program is available

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[13] Information on the South Australian School to Work program comes from an interview with a Senior Manager at Personnel Employment, the open employment arm of Barkuma.

through State, Catholic and Independent schools in metropolitan areas, due to a lack of funding for co-ordination in regional areas.

Those involved in the School to Work program identify its focus on giving young people work related skills and work experience in open employment as one of its strengths. Another strength is providing the opportunity for young people to make real choices. While the program aims to assist young people with disability access open employment, a young person may complete the program and decide to stay at school, or decide to go on to further education – both equally valuable outcomes. Even if participants decide to work in an ADE, as a few do, they go to the ADE with some experience of open employment and "down the track when they have built up their confidence and skills, they come back and say, 'I want to find a job in open employment now'. It is about creating that aspirational view" (Senior Manager, Personnel Employment).

As discussed in section 3, the participation of DES clients in education and training is less than it could be partly because DES funding does not allow service providers to support clients undertaking education or training courses. In South Australia, this problem has been solved through the VET to Work program which allows eligible DES providers to assist young people who are engaged in study negotiate to obtain tutorial support, use the library, set up a study plan, as well as dealing with life issues that can make it difficult to complete a course of study. The School to Work program also links into a new State funded initiative, the Better Pathways Program, which provides a mentoring and/or advocacy service for young people with disability or young people who have risk factors around disability. Under this program, which is targeted in areas where there are high levels of unemployment and low levels of engagement particularly rural and metropolitan areas where there are significant numbers of Indigenous young people at risk of disengagement from school and work, each young person has a Pathways worker who assists them complete their schooling and helps them choose the right post-school pathway. While funding for the Better Pathways Program is limited, it is possible for a young person to go through the Better Pathways Program, School to Work, then VET to Work and then into employment, throughout which time they have case management or mentoring support so that they don't fall through the cracks.

All of these programs are about building relationships between young people and service providers (creating linking social capital), but also building relationships between service providers. In other words, making connections between the silos that exist between, and even within, government departments.

> For example, in the Education Department, there is one section that is focused on disability and there is another section focused on training and transition. So we talk to both of them and help get them together and connect it up (Senior Manager, Personnel Employment).

Creating connections across government departments and levels of government does not happen automatically. A study of joined-up approaches to policy-making and implementation by O'Flynn et. al. (2011:252) identified the cultivation of rich, networked relationships within and between different levels of government and the affected community as one of the facilitators of successful joined-up service delivery. Consequently, transition programs such as School to Work require governments to commit to fund co-ordination activity as well as direct service delivery. In other words, to accept the reality that co-ordination is part of direct service delivery not some optional add-on to be cut once the pilot phase is completed and initial funding exhausted. At the same time, the amount of money needed to support co-ordination activity is not great. For example, the South Australian Education Department provides $61,000 per year for co-ordination of transitions for the 120 School to Work participants.

The School to Work program also depends on the development of collaborative working relationships between the co-ordinating agency and other DES providers. Barkuma initially set a limit on the number of young people that could be referred to its open employment service as a way of generating trust between its service and other participating DES providers. Once trust had developed, regulating numbers was no longer necessary.

The South Australian School to Work program and the two associated programs provide an example of an integrated approach to service delivery that is focused on employment outcomes while still allowing participants to make real choices about what they want to do with their life. Funding is tied to mutually agreed processes which service providers and the funding department agree will lead to valued outcomes. Risk management is therefore shared, rather than being placed almost

entirely onto service providers, as is the case with DES. The South Australian experience shows that those who do choose open employment are able to secure employment faster than their peers who have not gone through the program and usually able to sustain their employment for longer (Senior Manager, Personnel Employment). The success of the School to Work program challenges the Commonwealth Government to rethink its current approach to disability employment which assumes competition between service providers, rather than trust and collaboration, is the way to produce optimal outcomes. The final section returns to issues identified in section 1.2 and explores ways in which the continuing tension between accountability and the need for flexible, individualised service could be reconciled.

5. Reconciling trust and control

When the concerns identified during the public consultation process in the lead up to the introduction of the new Disability Employment Service are compared to the situation nine months into the new contract, it is striking how, with the exception of the uncapping of the program, none of the issues identified by the sector have been resolved. Administration and red tape have not decreased, the new operating system which replaced EA3000 is not easier to use and is equally unsuited to disability employment. The prescriptive nature of the contract remains as DEEWR continues to regulate how service provider agencies achieve outcomes. At the same time, the government has placed greater financial risk on service providers exacerbating tensions which already existed prior to 1 March 2010 between providers' contractual obligations under the Deed and their obligations under the Disability Service Standards. Consequently agency capacity to provide flexible, individualised and innovative services has decreased. Given the "extensive consultation process" which preceded the introduction of the new contract, the obvious question is why did the new contract fail to address the issues identified by the sector during the consultation process?

One explanation is that the design of the program was carried out by people who did not have 20 plus years of direct service delivery. While representatives of peak bodies were included in the design phase, they were not allowed to consult with their members. So while senior DEEWR staff publicly talk about the need to construct policies that draw on practitioners' experience and are well integrated with the structure of the communities they serve (Griew,2009:249), those responsible for specific programs feel, some would argue mistakenly, that full consultation with practitioners is not appropriate. This lack of consistency between policy and practice is not new. In the 1990s when many State Government Departments were moving to a system of competitive tendering, State Government guidelines encouraged consultation and collaboration between funders, purchasers and providers during the policy development and implementation phases, but line departments believed that a system of competitive tendering required them to distance themselves from potential tenderers (Nevile,1999:33).

As noted earlier, consultation did take place with the sector, but only after the initial policy design work had been done, and "at these meetings or roadshows there was very much the attitude from Department representatives when we would [raise concerns that], 'oh no, we are completely confident that that is going to be fine, don't you worry about that'" (CEO, metropolitan agency). Provider input was sought during the implementation phase through the technical reference group and the transition reference group, "but even in that environment…if you raised an issue and said, 'this won't work', and got agreement from the DEEWR representatives at the table…that then went further up the food chain in DEEWR to…the DES Steering Committee" (CEO, metropolitan agency). At no stage were providers able to "sit round a table and see the whites of the eyes of those people who were going to actually make a decision" (CEO, metropolitan agency). In terms of Arnstein's (1969) ladder of citizen participation, policy design and implementation clearly corresponded to the bottom three rungs of the ladder – informing, consultation and placation – rather than the top three rungs where decision-making power is shared.

The power imbalance in the relationship between service providers and the funding Department was raised by staff in two regional agencies. In talking about his experience of the new contract, one manager observed that

> it is very much the case that everything I am saying now is observation and anecdotal and DEEWR will turn up with a pile of stats and say, 'well, we found it is successful because…'

A team leader from another regional agency went further, linking the lack of responsiveness at higher levels of the Department to the concerns of front-line staff who struggle to deliver the program to "feelings of resentment and despair at the lack of power or the differential in power and not having anyone to complain to except your own boss who can't do anything about it anyway".

Since 2004 when policy responsibility for open employment services moved from FaHCSIA to DEEWR, administrative and funding arrangements for disability employment have been gradually aligned with those regulating mainstream employment services – a service in which the Government is preoccupied with "value for money" or cost per employment outcome and financial viability for service providers is achieved by adopting a "high volume/low margin" business model

(Fowkes,2011:7-9). As Lisa Fowkes outlines in a recent assessment of the effectiveness of Job Network and Job Services Australia, the high volume/low margin nature of the business

> requires rationing of resources at the front line. While these programs purport to invest resources according to need…their efficiency is in picking winners. Long term investments in job seekers, long term employer strategies and true, "risky" innovation, have all been casualties (Fowkes,2011:8).

In 2003 the Job Network became a "demand based" system with the majority of job seekers obliged to participate, and service providers unable to regulate the number of clients referred to their agency. However, the government did not compensate providers for this increase in financial risk through the fee structure. Providers responded by seeking larger contracts in order to spread the financial risk (Fowkes,2011:8). DES providers now share this increased financial risk and many within the sector see the loss of specialist and smaller agencies as an inevitable unless current trends are reversed.

> The consequences of the [shift in financial risk] has been larger and larger organisations, ones that have big bank balances who can take the losses…until they develop the program and get payback in the later years…I think the next tender round…we will end up with a number of major organisations operating round Australia with a whole bunch of regional organisations running State based programs. I think the smaller ones and the specialist agencies will fade away…so the one-on-one support that is provided by the small niche organisations would basically disappear (CEO, regional agency).

Agencies which provide a range of different programs and are prepared to cross-subsidize open employment are better able to absorb the increased costs associated with administrative complexity and increased financial risk while still maintaining service standards,[14] but even these agencies did not feel that they would be able to continue to do this indefinitely. A CEO of a regional agency noted that while she would prefer to be "just a disability employment service and be very good at that, but in terms of having to build your organisation and make it sustainable, you just need to diversify".

The frustration felt by many in the sector at the prescriptive and inflexible nature of the contract, arises from differences in thinking about the purpose of performance management on the part of government and service providers and a lack of fit

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[14] This finding is consistent with research carried out in the UK on the strategies third sector service providers use to protect their distinctive value base – see Nevile, Ann (2010) 'Drifting or holding firm? Public funding and the values of third sector organisations', *Policy & Politics*, vol 38, no 4, pp. 531-546.

between motivators and the motivations of those providing the service. For governments, being able to being able to articulate indicators of performance is highly symbolic – performance management systems are a signal of rational governance; a signal that governments are monitoring the expenditure of taxpayer dollars and hence ensuring that public resources are not being wasted (Taylor,2007; Moynihan,2005). In other words, for governments, performance management is primarily about managing political risk and hence the purpose of performance management is evaluation (how well is the organisation performing?) and control.

On the other side of the fence, the majority of service delivery agencies whose performance is being monitored acknowledge the need for accountability, but are primarily concerned about outcomes for clients. For service delivery agencies, the purpose of performance management is learning and improving (what is working, what is not working and why, as well as what can be done to improve performance?). Of course evaluation is all about learning and improving (what happened and why?) and governments are also concerned about outcomes for clients. But for governments, the symbolic value of performance management is more important and a public management culture imbued with rational choice and principal/agent theories skews performance management systems towards control rather than learning and improving.

Thus governments tend to monitor performance through KPIs that focus on inputs (control) and/or outcomes (evaluation). In the employment services context, evaluation KPIs predominate (for example, proportion of job seekers placed in a job three months after participating in job search training), with control achieved by linking funding to achievement of particular outcomes. That is, inputs (financial resources) are dependent on outcomes. In theory this should not be a problem if the outcome indicators are an accurate reflection of the full range of desired outcomes, or even the intermediate steps or sequence of outcomes which will ultimately lead to the desired, final outcome.

However governments tend to focus on easily quantifiable indicators (for reasons of control) and usually do not elaborate sequences of outcomes, some of which may be hard to quantify. Consequently, payments are linked to clients finding a job or taking

up education and training opportunities – outcomes which are easy to assess. But as those who work in this area know well, "hard" outcomes, like getting a job, are usually dependent on achieving "soft" outcomes, such as improved self-confidence or self-esteem, particularly for disadvantaged job seekers. Yet governments rarely reward achievement of these interim milestones. "Soft" outcomes are more difficult to quantify and are seen as more subjective than "hard" outcomes. Thus perverse incentives are created – creaming and parking – where organisations have a financial incentive to focus their efforts, not on those who need the most help, but on those who need the least. As discussions with DES service providers and clients clearly reveal, despite all the controls placed on providers by the funding Department, some agencies continue to engage in this sort of gaming behaviour. In such circumstances, it is the service delivery organisation's adherence to its own core values, not government imposed performance management systems, that ensures clients are provided with an appropriate level of assistance.

Another common problem with KPIs occurs when they reduce the capacity of the service delivery organisation to respond to individual need. Governments choose to work with non-government agencies because, such organisations are "value driven…[and] from these values [flows] a responsiveness to service users and awareness of their needs, along with a capacity for innovation" (HM Treasury,2006:3). However governments then impose KPIs that make it difficult (if not impossible) for non-government agencies to provide a flexible, individualised or innovative service.

The tendency for all types of organisations to "reward A while hoping for B" was noted over 36 years ago by Steven Kerr[15] who also identified a number of reasons why this type of organisational behaviour persists. The first, already mentioned, is the tendency to establish simple, quantifiable standards against which performance can be measured and rewarded – a tendency that works well in highly predictable activities, but one that is likely to cause goal displacement when applied to less predictable activities. The second, which is related to the first, is the tendency to focus on the highly visible parts of the task and ignore the less visible – soft skills, for example, are

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[15] Kerr's article was originally published in 1975 in the *Academy of Management Journal*. An update was published in the *Academy of Management Executive* in 1995.

often less visible as well as less quantifiable (Kerr,1995:12). When these tendencies are combined with the inappropriate application of principal/agent theory to situations which require local knowledge and co-ordination of service provision across a wide range of formal jurisdictions, it is hardly surprising that perverse incentives are created and outcomes for some clients are less than optimal.

However, alternatives models are available. For example, stewardship theory, developed as a management alternative to principal-agent theory assumes goal convergence because of shared collective interests leading, over time, to lower transaction costs for the principal and less time devoted to monitoring and compliance for service providers, as well as a greater involvement in how contracts are defined, structured and implemented (Van Slyke,2006:159-166). However, stewardship theory depends on the willingness of both the principal and the steward to trust that the other will pursue collectively agreed goals rather than their own self-interest (Van Slyke,2006:165). In situations where one party is very risk averse, intermediate actions may be needed to allow a sufficient level of trust to develop, such as those suggested by Charles Sabel (2004).

Sabel (2004) argues that the tension between accountability goals and optimal outcomes for all clients disappears if the direction and substance of the exchange between purchasers and providers is reversed. Under a hierarchical, principal-agent model, accountability means reporting on and compliance with benchmarks, rules or standards imposed on the agent by the principal. In what Sabel calls an experimentalist or pragmatic approach, provisional, initial goals are chosen and then revised in the light of more detailed, partial proposals which arise from efforts to implement the initial goals. Because the 'rules' or benchmarks in this model are being continuously evaluated and changed if necessary, accountability equates to reason giving , rather than compliance. That is, service delivery organisations are called upon to explain their use of the autonomy they have been given in pursuing corrigible goals.

Under Sabel's approach, monitoring is continuous and less concerned with outcome measures than with diagnostic information. That is, information that tells the service delivery agency and the funding agency what needs to be changed. Continuous

improvement is the goal, and the response of the funding agency to information that suggests change is necessary is increased assistance to enhance the capacity of the service delivery organisation. Punishment (withdrawal of funding) only occurs after a service delivery organisation repeatedly fails to use the additional assistance provided by the funding agency to make the necessary changes (Sabel,2004). This approach to monitoring provides a much better fit between the motivators used by those purchasing the service and the motivations of service providers. As discussed in section 1.2, the intrinsic motivations of service providers are enhanced when service providers feel the purpose of external intervention is to provide support rather than control their actions (Frey & Jegen,2001:594-595).

Sabel's focus on diagnostic information is consistent with Behn's (2003:593) conclusion that outcomes are not necessarily the best measure of performance for all purposes. When the goal of performance measurement is learning and improving, Behn (2003:593) recommends the use of disaggregated data that can reveal deviancies from the unexpected (learning) and information about what is going on inside the organisation that explains how changes in inputs, environment and operations leads to changes in outputs and outcomes (improving). Sabel's approach is also consistent with a growing body of empirical and theoretical literature which highlights the importance of a new modern form of trust in generating and sharing new knowledge (Adler,2001:220). This modern, or reflective, form of trust is based on open dialogue among peers (Adler,2001:227), and as such is earned rather than assumed (Brown & Calnan,2010:20). Thus, reflective trust is not blind, it does not assume that professionals should not be held to account. However, it does assume that those who are being held to account are involved in "decisions as to how meaningful accountabilities could be achieved" (Broadbent et. al.,1996:280).

Convincing governments to change the way they monitor performance will not be easy, given that for governments, performance management has an important symbolic function and is a means of managing political risk. In Australia, as in all Westminster systems of government, it is the minister who is expected to take responsibility for implementation failures, or perceived failures, and it is the job of government departments to implement programs in ways that allow the minister to mount a plausible public defense of government administration (Mulgan,2010:7&12).

Therefore politicians and bureaucrats are more likely to change the way they think about performance monitoring if they believe that change will make it easier to defend government administration.

At first glance, an approach focused on learning and improving and built on reflective trust rather than control seems unlikely to appeal. However Lynelle Briggs, former Public Service Commissioner and now CEO of Medicare Australia recently noted that "achieving real reform in service delivery means thinking about issues and solutions in new ways" (Briggs,2010:22). For Briggs, the core principles underlying service delivery reform will only be achieved if government departments put the service user first (Briggs,2010:24). While Briggs believes that success will be measured through the usual performance output measures, she does acknowledge that judgements about what constitutes success will be based on different sources of information with the views and feedback from the community on service effectiveness and efficacy being vital in terms of future program development (Briggs,2010:25).

Seeking feedback from service users and service providers is the start of Sabel's experimentalist or pragmatic approach. DEEWR already does this. As suggested by earlier discussion of the policy development and implementation process surrounding the new disability employment services, what is needed is to move beyond merely seeking feedback to using that feedback to adjust corrigible performance measures or benchmarks. Using feedback in this way is one way of operationalising the emerging concept of co-design where citizens are actively involved in the design of services (Lenihan & Briggs,2011:35). Governments may feel insecure and exposed to unnecessary risks under such a system, but may come to embrace it once they realise that a steady stream of diagnostic information is, in effect, an early warning system that allows for publicly defensible corrective action to be taken before stories of administration failure appear on the front pages of national newspapers.

Principal Recommendation

That DEEWR and the sector together develop a set of performance management tools that meet the government's goal of managing political risk as well as providing an enabling environment for innovative, flexible and individualised service delivery.

Additional recommendations

The employment search/consolidation model that underpins current agency contractual arrangements assumes job seekers are on a linear path where barriers to employment are progressively and permanently overcome. This linear path may fit some job seekers (for example, those with a physical disability whose barriers to employment can be overcome by modification of the work site), but does not fit job seekers whose experience is more episodic than linear. While an alternative performance management model is being developed, a number of other changes should be made to the payment structure (Recommendations 1-3) and to administrative arrangements (Recommendations 4-10) which will reduce the administrative burden on service providers and make it easier for service providers to deliver a flexible, individualised service.

Recommendation 1: Rebalance service fees and outcome payments

A rebalancing of the money provided to agencies as up-front service fees and outcome payments tied to 13 and 26 week periods of employment would increase agencies' capacity to provide assistance when needed to clients who experience episodes where more intensive support is needed.

Recommendation 2: Outcome payments linked to the achievement of current not future benchmarks

The linking of outcome payments to the achievement of future benchmarks rather than current benchmarks means, in effect, that the future benchmark (work capacity with intervention) is being treated as current capacity. Staff are very much aware that, in many cases, intervention is not as simple as merely modifying the workplace. Capacity building can take months or years and, in the meantime, staff have to choose between pushing a client to take on more hours than they are presently capable of sustaining and getting an outcome payment, or working with the client to slowly increase capacity but not getting paid for that work because the hours are less than the client's designated future benchmark. Professional norms means staff are reluctant to "set clients up to fail", but financial pressures are hard to resist. Linking the outcome payment to the achievement of current not future benchmark would remove the tension which currently exists between the Disability Service Standards and agencies'

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financial viability. Recognition of work done to increase capacity could be acknowledged through a small bonus payment.

Recommendation 3: Agencies being able to claim an outcome payment when the period of employment covers more than one workplace

While the rationale behind the restructuring of outcome payments under this contract so that periods of employment in different workplaces cannot be accumulated in order to gain an outcome payment is clear, once again, this inability to tailor employment pathways to suit individual need causes tension between professional notions of best practice and financial imperatives. For example, while older job seekers value sustained periods of employment with the one employer, for younger job seekers making the transition from school to paid employment, the ability to 'taste and see', to try out a number of different types of work, is equally valuable and leads to more stable outcomes. Agencies should be given the opportunity to claim an outcome payment when the period of employment covers more than one workplace and there is a good reason for giving the job seeker experience of different workplaces.

Recommendation 4: Agencies audited against nationally agreed quality requirements

All DES agencies are currently required to meet the National Disability Standards and are audited against these standards. Given work being done to develop a National Quality Framework for Disability Services, part of which involves quality requirements applicable across the whole country, an annual audit of each agency against these nationally agreed quality requirements should provide the government with information on the overall quality of service delivery as well as any areas which need improvement. Agencies which meet these nationally agreed quality requirements (or have taken action to bring any areas of concern up to standard within the life of the contract) should be allowed to continue to operate without having to tender.

Recommendation 5: Remove restrictions on client choice of provider

From interviews with job seekers it was clear that high performing agencies quickly gain a reputation among job seekers as an agency that is able to find you a job. Therefore restrictions on agencies taking clients from outside their ESA should be

removed. In other words, let market mechanisms rather than administrative regulation determine the flow of clients into a particular agency.

Recommendation 6: Remove the requirement to meet clients every fortnight

Staff commented that the new contract is much more prescriptive than previous contracts, pointing to the requirement to meet with each client every fortnight regardless of their circumstances. Staff felt this requirement was a misallocation of scarce resources because at times they were just going through the motions and when clients did need more intensive support, there was no time to provide the necessary support. Staff noted that in the past when clients were going well, they had the flexibility to make contact every month or so, but at other times, when job duties changed, or there was a crisis in a client's personal life which affected their work life, staff had time to provide more intensive support.

Recommendation 7: Update EPP as necessary

The requirement to review and update Employment Pathway Plans each fortnight is seen as unnecessary. As one EC noted, "a lot can happen in a fortnight, and nothing can happen". If nothing has happened, reviewing an EPP becomes another 'tick the box' type exercise, using up time that could be spent more productively.

Recommendation 8: Improve the Job Capacity Assessment process

One of the reasons for the increase in time spent on administration under the current contract is the increase in inappropriate assessments which require further administrative work to resolve. The main cause of inappropriate assessments is the mismatch between disability and the professional qualifications of the Job Capacity Assessor. Staff pointed out that it was unrealistic to expect a registered nurse or an occupational therapist to be able to make an informed assessment of a client with mental health issues, even setting aside the difficulties involved in trying to establish a level of rapport in a brief initial meeting such that the job seeker feels sufficiently comfortable to reveal information about their disability and their work capacity.

The consequences of inappropriate assessments are job seekers assessed as being capable of working at a level above their actual capacity, or assigned a level of funding that is insufficient to allow the job seekers to sustain their employment.

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Faced with inappropriate assessments agencies are able to request a re-referral, but this is time consuming for the agency and stressful for the job seeker, with no guarantee that a higher level of support will be forthcoming.

The significant problems caused by inappropriate assessments will not be overcome simply by using Centrelink staff. Even if Centrelink is able to match the professional qualifications of the Job Capacity Assessor to the type of disability, problems of clients not feeling comfortable enough to reveal all relevant information (assuming they are aware of it) will remain. In order to overcome this problem, job capacity assessments should be treated as a dynamic process with information collected over three months or so. Job Capacity Assessors in Centrelink should make the initial assessment based on available information in the job seeker's file. No face-to-face interview is required. Employment agencies then provide further information gathered from interaction with the job seeker over the next three months. At the end of the three month period, the Job Capacity Assessor reviews all information, paying particular attention to information provided by the employment agency, and makes a final decision as to current job capacity. Treating the job capacity assessment process in this way:

- removes the requirement for Job Capacity Assessors to fly all over the country – a considerable saving in time and money;
- removes the requirement for job seekers to meet with Job Capacity Assessors – an experience many find stressful; and
- delivers a more accurate assessment as information revealed over time through interaction of agency staff and job seekers is incorporated into the decision-making process.

Recommendation 9: Remove requirement for annual on-going support assessments

The mandatory requirement to undergo a yearly on-going support assessment which leads some clients to exit the program leads to sub-optimal outcomes for those clients. This problem could be easily avoided by dropping the requirement for yearly on-going support assessments, and instead tying the requirement to when there are significant changes in client circumstances.

Recommendation 10: Remove requirement for pay slip as evidence of hours worked

The negative impact on some clients as well as the additional administrative burden placed on agencies would be removed if the requirement to provide pay slips as evidence of hours worked was replaced by a statutory declaration by the agency setting out the number of hours for each client as agreed with the employer.

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