Advisory Panel on Employment Services Administration and Accountability
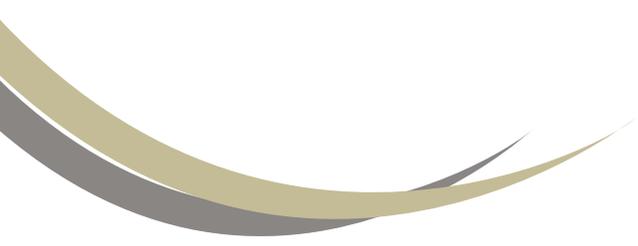
Discussion Paper

14 November 2011

Contents

Glossary

APESAA	Advisory Panel on Employment Services Administration and Accountability
DEEWR	Department of Education, Employment and Workplace Relations
DES	Disability Employment Services
ESP	Employment Service Provider
JSA	Job Services Australia
KPI	Key Performance Indicator

1.   Introduction and background

APESAA

The purpose of this discussion paper is to seek stakeholder input for the Advisory Panel on Employment Services Administration and Accountability (APESAA). APESAA is an independent panel that has been convened by the Australian Government to identify potential improvements to the Job Services Australia (JSA) program and Disability Employment Services (DES) program with a focus on 'red tape' reduction. (In this discussion paper, JSA and DES are referred to as 'the Programs'.)

Box 1: APESAA's terms of reference

- identify existing employment services administrative processes that are considered, from a whole-of-model perspective, as unnecessarily burdensome or complex;

- examine related business processes and practices of Employment Services Providers (ESPs) to identify their potential systemic contribution to administrative burden and streamlining;

- identify a cost-neutral forward agenda comprising practical actions to streamline administration in the employment services model; and

- provide advice on appropriate mechanisms for the future assessment and measurement of administration and accountability processes in the employment services model.

APESAA comprises:

- Ms Susan Pascoe AM (Chair);

- Ms Su McCluskey; and

- Professor Myles McGregor-Lowndes.

The discussion paper reports the key early findings from the Panel's work, and outlines possible themes and principles to guide administrative and structural improvements to the Programs. Consultation questions are also provided.

The context for reform

Over the life of the JSA and DES programs, and their predecessor programs, the Australian Government has taken steps to simplify administration while driving better outcomes for job seekers. Examples include the Independent Review of the Job Seeker Compliance Framework, the creation of the Business Support Officer role, ongoing IT improvement work and Centrelink

improvement initiatives. The creation of the JSA combined seven programs into one, and there was consequently a significant reduction in compliance requirements at that time.

Nevertheless, the JSA and DES models are complex and red tape can be further reduced. The administrative and compliance burdens associated with the Programs are frustrating not only for private and not-for-profit providers but also for job-seekers and the government staff who work in the Programs. The Government has expressed a willingness to review the programs' operation and to make changes in response to new circumstances, new evidence and stakeholder feedback.

As noted in the terms of reference, APESAA is seeking to identify cost-neutral improvements, ie. those that will require no net increase in funding.

The improvements identified by the Panel are long-term in nature and are only relevant to the 2015 contract period and beyond.

The review framework

To fulfil the terms of reference, the Panel has established a review framework to guide its work. The review framework comprises the following steps:

- mapping the key parts of the JSA and DES processes;

- identifying key compliance requirements at each stage of the processes;

- identifying compliance burdens from the perspective of providers;

- identifying the objectives of the various systems, processes and other 'controls' in the Programs;

- considering whether, in light of the objectives, the controls are necessary, or the objectives could be better achieved in a less burdensome way; and

- ascertaining the impact of the various administrative requirements on job-seekers.

Consultation

This Discussion Paper has been informed by extensive consultation. The Panel has consulted with representatives of job-seekers; peak bodies; large and small providers (for-profit and not-for-profit); and government organisations in Australia and the UK. Organisations that were consulted include: the National Employment Services Association; the Australian Community Support Organisation; Direct Recruitment; Jobfind; Matchworks; MAX Employment; PVS Workfind; the Australian Red Cross; Sarina Russo Job Access ; Job Prospects; DEEWR; the UK Department of Work and Pensions; The Access Point; Specialisterne Scotland; Salvation Army Employment Plus; the Australian Council of Social Services; Jobs Australia; the National

Disability Service; Disability Employment Australia; the Brotherhood of St. Laurence; the National Council of Single Mothers and their Children; Homelessness Australia; the National Welfare Rights Network; and WISE Employment.

2.   Identifying unnecessary burden

A key aim of APESAA is to identify compliance requirements that are especially onerous or costly and:

- unnecessarily complex; or

- potentially overlapping or unnecessary in light of other controls and requirements.

Examples of process features and compliance requirements that are relevant to the Panel's work include:

- form filling (paper and electronic);

- obligations to produce and retain documents;

- the complexity of processes (eg. the number of process stages, streams, KPIs and systems); and

- the number and complexity of transactions.

It is important to note that:

- the scope of the review includes government processes as well as the business processes and practices of ESPs. Not all compliance burden is imposed by the government, as many providers use 'shadow' systems, to duplicate DEEWR systems, or 'legacy' systems, to comply with requirements that have since been removed. Reduction of government-imposed red tape will not necessarily reduce the total administrative burden if providers continue to duplicate systems; and

- not all regulatory and compliance requirements are undesirable. DEEWR and other program participants have a responsibility to prevent fraud and to ensure that public funds are spent in a defensible way, that these expenditures are auditable, and that taxpayers receive value for money. Some level of administrative and compliance costs will always be necessary in order for participants to fulfil these responsibilities.

Box 2 provides some hypothetical examples of unnecessary regulatory controls and compliance burdens.

Box 2: Hypothetical examples of unnecessary controls and unnecessary burdens

- *unnecessary administration*; eg. where ESPs must complete a form that contains information already provided in a different form that is kept up-to-date; or where ESPs must complete paper-based forms that have been superseded by an on-line system;

- *overlapping requirements*, eg. where ESPs must demonstrate that they have good corporate governance and financial management arrangements in place, but this is already demonstrated to ASIC or another regulator, and there is a governing board whose members have binding duties to establish sound governance arrangements;

- *unnecessary complexity*, eg. where adjacent process streams or outcome types are very similar and so the distinction between them is largely unnecessary;

- *controls fulfil a policy objective that is no longer relevant*, eg. where an early generation of the system required ESPs to enter data on a subject that is no longer relevant (because the system is more mature, or the policy goals have shifted);

- *controls seek to manage a risk that is no longer relevant*, because the risk is fully mitigated by another control outside the system, or the risk profile of the system has changed such that the risk no longer needs to be managed, eg. there may be a level of trust between the regulator and the regulatee such that prescriptive regulations are not required; and

- *providers maintain administrative processes and systems that add an unnecessary layer of bureaucracy*, eg. where a system maintained by ESPs is not a JSA or DES requirement and is not fulfilling a JSA or DES objective, or is largely duplicated by another system that is required.

Examples of areas for potential improvement in the Programs include:

- outcome types and outcome fees;

- the contracting process, terms and length;

- key performance indicators;

- service fees structure;

- information technology systems;

- JSA/DES–Centrelink communication;

- documentary evidence requirements; and

- general administration.

The Panel has adopted an outcomes focus and, where possible, has sought to view the Programs' processes and requirements from the perspective of job-seekers. In this regard, a key test for any proposed change to the Programs is whether the change is likely to improve outcomes for job-seekers.

3.   Preliminary findings

The Panel heard a range of views and received many suggestions for change. These ranged from very minor and incremental changes, to radical and sweeping reforms. In its own deliberations and in preparing this discussion paper, the Panel has focused on identifying changes that offer substantive improvements for job-seekers, providers and taxpayers. The Panel has not sought to consider changes that are minor or non-strategic, or that have already been identified and are being pursued.

The Panel considers that future reform should reflect the principles of earned trust; administrative simplicity and best practice; innovation; and outcomes-focused, risk-based administration. These principles are linked; for example, moving to a system of greater trust and less red tape and 'micromanagement' will require the establishment of other ways to achieve assurance about provider quality, such as a provider accreditation regime, industry standards and greater use of risk-based approaches.

The Panel's key preliminary findings and possible directions for reform are summarised in the following table. The key preliminary findings relate to system outcomes; risk; meeting individual job-seekers' needs; empowering job-seekers; innovation; system design; and data.

The table also includes questions to help guide the consultation. Feedback on the questions is sought from stakeholders, but the questions are not intended to limit the scope of feedback.

Topic	Preliminary findings	Possible reform themes	Questions for consultation
General: Outcomes-focused administration	The key outcome being sought by the Programs is sustainable employment for job-seekers. The level of administrative complexity and controls on Program inputs and outputs is high, but it is not clear that all the controls are contributing to favourable outcomes for job-seekers. The high degree of complexity gives rise to inadvertent and trivial 'breaches' of the program rules. Performance measures are more focused on quantity than quality. Payments are attached to small milestones that do not necessarily lead to sustainable employment.	**A stronger focus on measuring and rewarding performance, based on outcomes achieved, with more flexibility in how ESPs achieve those outcomes**. In particular, in the definition of outcomes there would be a stronger focus on sustainable outcomes as the basis for rewarding ESPs. **Simplification of outcome types**. **Rebalancing payments, toward outcome fees and away from service fees**.	1. How can a stronger focus on sustainable employment be built into the Programs? 2. Is there a need to reduce the number of outcome types, and/or simplify the definition of outcomes? 3. Should payments be rebalanced toward outcome fees and away from service fees?
General: Risk-based administration	The regulatory controls and administrative and compliance requirements are intended to manage various types of risk but in fact may be poorly matched to the profile of risks. For example, there is little scope for a more 'light handed' regulatory approach for ESPs with a long and positive track record of performance, compliance and honesty.	**Better matching compliance requirements to risk**. This could include establishing less onerous controls for ESPs with a strong track record. (This approach could be linked to possible reforms relating to ESP accreditation and workforce competencies, which are discussed below.)	4. In the Programs, can administrative and compliance requirements be better matched to the relevant risks they seek to manage? 5. Should ESPs with a strong track record of performance, compliance and honesty be 'rewarded' with more light-handed controls (ie. fewer and less onerous compliance requirements)? 6. Should ESPs be encouraged to pursue innovative ways to manage risk? What implications would this have for the Program systems and for DEEWR?

Topic	Preliminary findings	Possible reform themes	Questions for consultation
General: Tailoring, personalisation	Contracts and tools are generic ('cookie cutter') rather than tailored or personalised to individual job-seekers' needs.	**More tailored and personalised services, to better meet the needs of individual job-seekers**. The design of contracts and tools would reflect this. Efforts to tailor services and tools should be alert to the associated costs, including the potential costs of additional complexity.	7. What scope is there for more tailoring and personalising of employment services? What form might this take? What are the expected benefits and costs?
System design: Empowering job-seekers	Job-seekers are often vulnerable when they receive Program services, and may feel disempowered by the Programs and their design.	**Empowering job-seekers**, including with regard to the design of the Programs, and arrangements for receiving and acting on job-seekers' complaints.	8. Are there sufficient arrangements in place for receiving and acting upon job-seeker complaints? How could these arrangements be improved? Are there other system changes that would empower job-seekers?
System design: Innovation of practice	Benefits are expected to flow from encouraging an innovative approach to practice. The scope of innovation by ESPs could be expanded, and the drivers of innovation could be strengthened.	**Encouraging greater innovation among providers**. This would include encouraging ESPs to innovate in the design and administration of services, and to identify smart ways to comply with Program requirements.	9. How can ESP innovation be further encouraged? Is there sufficient latitude in the Programs for ESPs to innovate in how they comply with system requirements and how they administer services? Are there sufficient drivers to encourage this type of innovation? 10. Is there sufficient scope for 'healthy collaboration' between ESPs?

Topic	Preliminary findings	Possible reform themes	Questions for consultation
System design: Accreditation and auditing of providers	Compliance requirements in the Programs are relied upon to do much of the regulatory 'heavy lifting', unlike in other sectors where there are multiple sources of assurance about providers' conduct, such as accreditation schemes.	**Assuring the performance and capability of ESPs through a new accreditation scheme, linked to new industry standards for the delivery of employment services**. It is noted that: • analogous accreditation arrangements exist in the education, health and aged care sectors; and • accreditation works best when providers are mature and have the organisational capacity to invest the time and resources that accreditation systems require. Assurance could also be obtained through more frequent auditing of ESPs.	11. What are the potential benefits and costs of establishing a new accreditation scheme for ESPs? Could such a scheme enable a reduction in compliance requirements for accredited ESPs? 12. Should ESPs be subject to more frequent auditing? Could more frequent auditing enable a reduction in other compliance requirements? Should the auditors be independent of DEEWR?
System design: Professionalising the workforce	The providers' workforce is facing significant pressures.	**Professionalising the employment services workforce**, with agreed knowledge, skills and competencies. As with accreditation, professionalising the workforce requires that there be sufficient resources and capability in providers so they can make the necessary investment in training in an acceptable timeframe.	13. What are the potential benefits and costs of establishing new competency and qualification requirements for ESP staff? Could this be done in a cost-neutral way?
System design: Length of contracts and predictability of funding	There is a concern among some ESPs that employment services contracts are too short and funding too unpredictable for providers to plan and invest adequately.	**Longer contracts and/or greater predictability of funding**, as a reward for providers with a strong track record.	14. Are employment services contracts too short? What are the potential benefits and costs of making funding more predictable for providers? Should contract length and/or predictability of funding be linked to providers' record of performance?

Topic	Preliminary findings	Possible reform themes	Questions for consultation
System design: Dual providers	Some organisations are providers under both the JSA Program and the DES Program. Such organisations must enter into two employment services contracts.	**Considering the merit of greater alignment in contracts across the two programs**.	15. What are the potential benefits and costs of greater alignment in contracts across the two programs?
System design: Stream structure	There may be merit in revisiting the JSA streams to reduce the complexity of the Program architecture as a whole, and establish clearer boundaries between the streams.	**Simplifying the JSA stream structure**, such as by combining streams 2 and 3, or removing stream 1.	16. What are the potential benefits (including reduced complexity) and costs of simplifying the JSA stream structure, such as by combining streams 2 and 3, or removing stream 1? Could this be done in a cost-neutral way?
System design: Red-tape reduction advocate	In the administration of the Programs there is no strong internal advocate with the power to champion administrative improvements, simplification and reduced red tape.	**Establishing within the Programs an explicit and powerful advocate for streamlining, simplification and red-tape reduction**. The red-tape reduction advocate or champion would adopt the perspective of job-seekers and providers. The advocate or champion would help achieve whole-government coordination, including by building linkages between DEEWR, Centrelink and other agencies. The advocate or champion could be supported and informed by a standing committee featuring representatives of job-seekers, providers and government. The performance framework for the advocate or champion could include reform targets, eg. administrative burden reduction targets.	17. What are the potential benefits and costs of establishing within government an employment services advocate or champion with the power to identify and pursue administrative improvements, simplification and red-tape reduction? 18. Is there merit in establishing a standing committee of job-seekers, providers and government representatives, to identify administrative improvements and opportunities to reduce red tape and compliance costs? 19. Should Program reform targets, including administrative burden reduction targets, be established?

Topic	Preliminary findings	Possible reform themes	Questions for consultation
System design: Managing changes to the system	A goal of the advocate or champion (above) would be to keep driving change in administrative practices as the system matures and the environment changes. At the same time, constant and poorly coordinated change is itself costly.	**Establishing new arrangements for managing changes to the Program requirements and design**. This could involve a staged annual process of changes which incorporate all the new procedures, so that stakeholders can anticipate these changes and make plans accordingly in a scheduled way.	20. How should changes to the Programs be managed and implemented?
System design: Conflicting DEEWR roles	In the current model, DEEWR plays the roles of 'regulator' of ESPs as well as 'purchaser' of employment services. In principle, these roles can clash: for example, the regulator and purchaser may face different imperatives about the degree of choice and competition, the level of regulation and the degree of innovation.	**Considering the merits of separating DEEWR's 'regulator' and 'purchaser' roles with respect to ESPs**, possibly by assigning the regulator role to a different agency (new or existing). Any major changes to the 'regulator' role would sensibly be made in concert with the possible introduction of a provider 'accreditation' scheme as outlined above.	21. Should DEEWR perform the role of both regulator and purchaser in the Programs?
Data collection	There are opportunities to improve data collection, particularly with respect to data about performance and outcomes.	**Better data collection**, which would underpin a stronger focus on Program outcomes, innovation and administrative improvement.	22. What are the key opportunities to improve data collection in the Programs? Is there scope to simplify or consolidate data collection?

Topic	Preliminary findings	Possible reform themes	Questions for consultation
Duration of data management	The duration of data retention and management was raised as a concern by several consultees. It was suggested that, because the system did not retain job-seekers' personal data, there were unnecessary administrative costs when job-seekers returned to the system after a period of work or study. There are competing imperatives here: it is important that data is available when it is needed, but it is also important that providers and other system participants are not required to maintain records for an excessive amount of time. Privacy considerations are also relevant to the use and retention of data.	**Considering improved arrangements for the retention and management of data**. This could include considering a system whereby providers can dispose of data after a certain time has elapsed unless they are explicitly notified that the data must be retained for a specified longer period.	23. Is there a need to reform data retention arrangements? If so, what form might this take?

4.   Making a submission

The Panel encourages interested parties to express their views and to contribute to the Panel's work. Anyone may make a submission to the Panel (in written, electronic or audio form).

Submissions should be forwarded to the APESAA email address (APESAA@deewr.gov.au) before 27 January 2012.

Submissions that are relevant to the Panel's terms of reference may be posted on the DEEWR website. To facilitate this, we would prefer an electronic version of written submissions in Word format.

The Panel wishes to publish the submissions it receives to the greatest extent possible. Nonetheless, materials may be submitted in confidence. Confidential submissions must be clearly marked 'CONFIDENTIAL', either in part or in full.

The Panel expects to report to DEEWR in mid-2012.

Appendix 1: Current framework for job-seeker advice, complaints and referrals

Questions about income allowance or participation reports	General enquiries about employment services & pin resets	Complaints about the services they are receiving from their provider	Advice and assistance about transfers between providers	Referrals to third parties (will depend on the nature of the complaint)
Step 1	Step 1	Step 1	Step 1	Commonwealth Ombudsman Call 1300 362 072 www.ombudsman.gov.au
Call Centrelink	Call Employment Services Feedback Line	Make a complaint to the provider in the first instance	Talk to your provider about a 'transfer by agreement'	Fair Work Info Line Call 13 13 94 www.fairwork.gov.au
		Step 2 – if unhappy with provider response	Step 2 – if help is required with the transfer	Australian Human Rights Commission www.humanrights.gov.au
		Call Employment Services Feedback Line	Call Employment Services Feedback Line	Australian Information Commissioner www.privacy.gov.au
		Step 3 – if unhappy with investigation see referrals to third parties		
Call 13 28 50	Call 13 62 68 and select Option 1	Step 1: Use provider complaint process Step 2: Call 1800 805 260 and select Option 2	Step 1: Use provider complaint process Step 2: Call 1800 805 260 and select Option 2	