

Licensing employment services

Submission to the Department of Education, Skills and Employment

4 November 2020

About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4,000 organisations and individuals across Australia in metro, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

Summary

A well-designed licensing system is a key element of employment services reform to improve the quality and effectiveness of assistance for those most disadvantaged in the labour market.

Service quality and responsiveness to users are poor in jobactive

In our survey of participants in the jobactive program in 2018, respondents were overwhelmingly (73%) dissatisfied with the service. Those who were dissatisfied said they had not received useful help, and that interviews with providers were stressful due to an overbearing emphasis on unemployment payment compliance.

What people said about jobactive in our [Voices of Unemployment Survey](#)

'Frustrating, humiliating and depressing' (Female, 50+, Queensland)

'It has actually affected my health with stress and anxiety' (Female, 50+, couple no children, South Australia)

'The balance between holistic genuine interactions and what 'Centrelink Requires' is just not there.' (Male, 25-49, single with no children, Queensland)

'They seem to be stretched so thin, I'm sure that individually they're fine at their jobs but due to the sheer volume of people they need to deal with, you'd never know.'
(Female, <25, single with no children, Victoria)

The [Employment Services Expert Panel](#) found that the program was too compliance-heavy, and that consultant caseloads were much too high (averaging 140) along with staff turnover. Employers were dissatisfied with poor screening of applicants.

Competitive contracting and an over-emphasis on compliance have diminished service quality

In competitive contracting models with a single purchasing agency, there is always a tension between competition, value-for-money, service quality and local cooperation.

Successive iterations of the Job Network model have encouraged providers - especially those with a profit motive - to under-invest in support for people who need the most help. In the absence of strong checks and balances to empower service users and ensure quality, governments responded to excessive profit-taking by reducing the price they were prepared to pay for employment services.

Together with an over-emphasis on enforcement of activity requirements, this cycle of under-investment and reduction in provider payments has contributed to a downward spiral in service quality. It has eroded trust between providers, service users, and government, leading to tighter contract management and higher administrative costs.

These weaknesses in the employment services system contributed to Australia's failure to reduce long-term unemployment over the two decades prior to the COVID recession, despite sustained economic growth.

The costs and benefits of competitive contracting, and the role of for-profit providers, should be reassessed before the new system is introduced.

These fundamental issues, which were beyond the scope of the Expert Panel's Terms of Reference, should be independently evaluated before the new system is put into place. The key questions to resolve are:

- whether competitive contracting has benefits that outweigh the disadvantages that have emerged over the last 20 years including poor service quality and limited connections with local employers and communities;
- whether there are ways to offer choice to service users and manage performance that do not compromise quality; and
- the role of for-profit and community-based providers in the system.

Licensing of employment services should be separate from commissioning

A licensing system cannot, on its own, resolve these problems. It can make it easier for new organisations to enter the employment services system and avoid the high transaction costs and funding uncertainty associated with regular national tenders. More importantly, along with broader reforms of the commissioning system it can bring badly-needed improvements in service quality and the responsiveness of services to the needs of employers, people who are unemployed, and local communities.

If the main program in the new employment services system follows a competitive contracting model, the *commissioning system* (including contracting and performance management) must be balanced by a robust *licensing system* that assures quality and promotes engagement with local communities and employers.

As in other social services such as child care and higher education, the right balance between performance, price and quality is best achieved by separating commissioning (the purchase of services by government) from licensing (quality assurance through an independent regulator).

Summary of recommendations

The costs and benefits of competitive contracting, and the role of for-profit providers, should be independently evaluated before the new system is introduced, to answer three questions:

- whether any benefits of competitive contracting outweigh its costs;
- impacts of for-profit providers and community-based governance on service quality and effectiveness;
- whether there are ways to offer choice to service users and manage performance that do not compromise quality and cooperation at the local level.

The licensing system for employment services should:

- be separate from contract and performance management;
- determine whether an organisation can provide publicly-funded employment services in a given area or for a given user population, based on a set of minimum quality standards;
- influence in a transparent way whether they are contracted to do so, based on a set of above-minimum quality standards;
- assess organisational integrity, capacity, accessibility, quality, and user-responsiveness;
- work with providers, service users, the department, educators and other stakeholders to develop minimum qualification standards for user-facing staff;
- work with providers, service users, the department, and community organisations to develop minimum standards for community, user and employer collaboration at local level;
- develop minimum standards for organisational governance that are responsive to the relevant local community and service user populations;
- issue and manage licenses for each Employment Service Area, user populations with special needs, and industries;
- work proactively with providers, users and other stakeholders to promote and share best practice.

We make detailed recommendations in the body of this submission. For more information on our proposals to improve employment assistance, see ACOSS (2018), [*Submission on Future Employment Services*](#).

Discussion

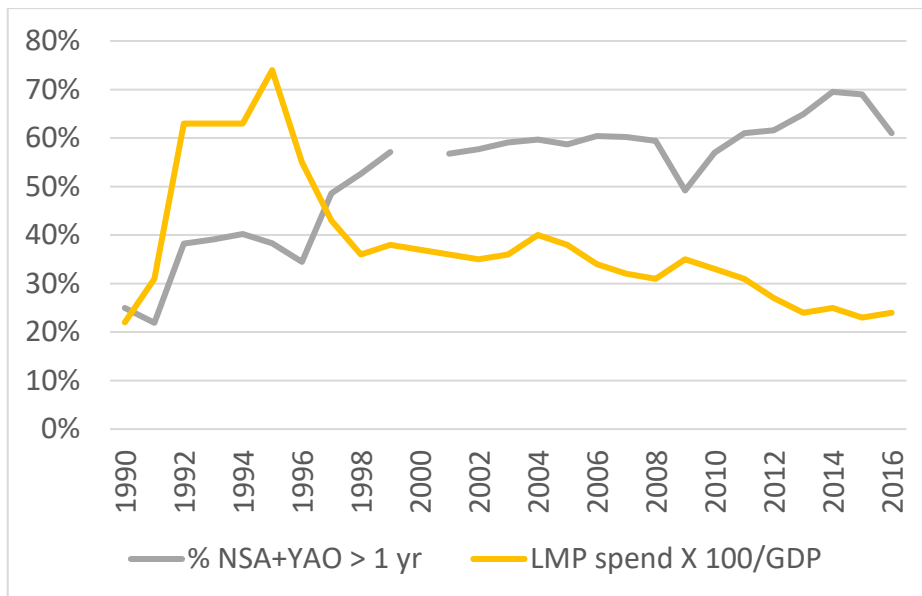
In contracting systems like jobactive, there are real tensions between competition, cooperation, quality and value-for-money

Robust quality assurance can ease, though not resolve, the inevitable tensions between competition, value-for-money, service quality and local cooperation in an employment services system where competing providers are contracted by a single (monopsony) government purchaser, as in the *jobactive* program.

Although prices in this 'pseudo-market' are fixed, there is always a risk that providers - especially those with a profit motive - will under-invest in support for people who need the most help, and that prices will be reduced in successive tenders to limit profit-taking so that the purchaser (government) shares in the savings. This has been the experience with employment services in Australia.

In 2016, the Australian government spent less than half the average expenditure by OECD nations on employment assistance (as a share of Gross Domestic Product). Given the increasingly disadvantaged profile of people who are unemployed, the potential of employment services to reduce long-term unemployment and its rise under successive employment services contracts, this is false economy (Figure 1).¹

Figure 1: Trends in the long-term share of unemployment payments and labour market program (LMP) spending



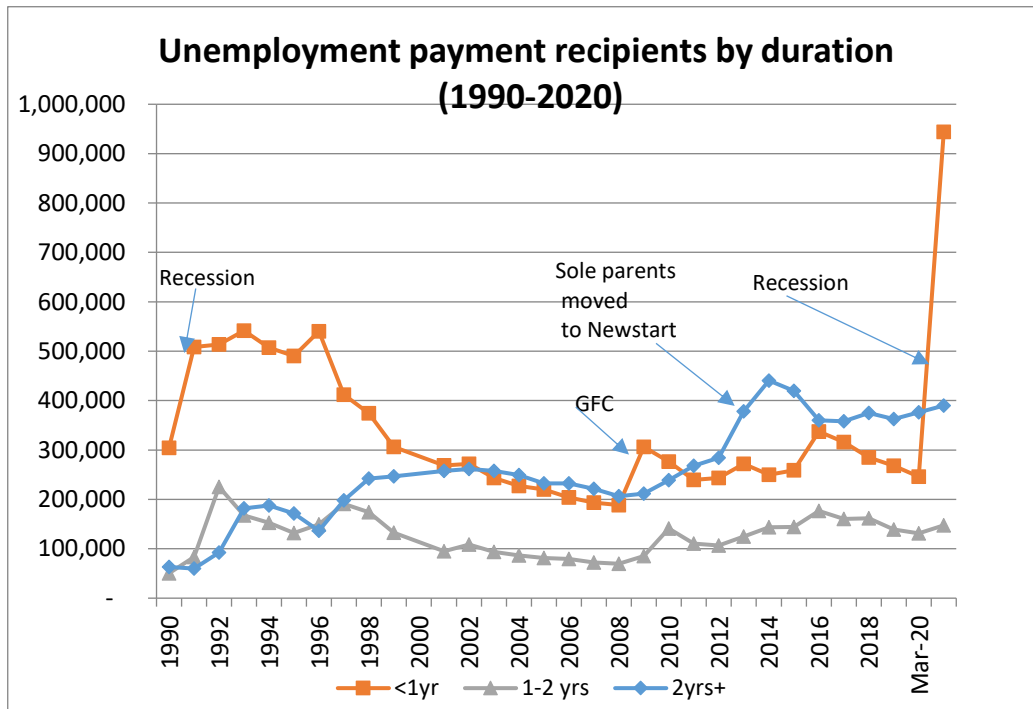
Source: Department of Social Services and OECD Social expenditure database.
 Note: LMP spending X 100/GDP = spending on labour market programs for unemployed people (multiplied by 100 for comparative purposes) as a % of GDP.
 NSA+YAO >1yr = long term recipients of unemployment payments.

¹ OECD Public expenditure data base; Card D et al (2017), [What works? A meta-analysis of recent active labour market program evaluations](#), NBER Working Paper 21431, Cambridge MA.,

It's time to reassess the costs and benefits of competitive contracting

Our failure to reduce prolonged unemployment over years of sustained economic growth calls into question the competitive purchasing model (and the role of for-profit providers within it), and the over-reliance on benefit compliance systems to drive people to search for employment more intensively.

Figure 2



Source: Department of Social Services

Note: Recipients of Newstart and Youth Allowance (Other) payments

The failure to reduce prolonged unemployment also raises questions around whether employment services are sufficiently well connected with local communities, employers, and the populations most affected by long-term unemployment. Local governance and collaboration are likely to yield better outcomes than competition among providers, especially in thin labour markets and places where unemployment is consistently high. The government recognised the value of local partnerships through the recent introduction of the Local Jobs program.²

Not all employment service programs use competitive contracting – for example, *Transition to Work* has a single provider in each region. Its costs and benefits – including the trade-off between choice and cooperation and the role of for-profit and community-based services within the system - should be re-assessed before the new employment services model is finalised.

² ACOSS (2020), [Local employment and skills development partnerships](#). Briefing Note, 12 August 2020.

jobactive falls short on quality

As the Employment Services Expert Panel found, the *jobactive* program falls short on quality, even though service quality is among the KPIs used by the department to award and manage contracts.³

The Panel found that caseloads averaged 140 and turnover of frontline staff was high. Many frontline staff lacked qualifications or experience relevant to providing employment assistance to people disadvantaged in the labour market. Interviews were often compliance-oriented 'tick a box' exercises.⁴

People who rely on employment services to make a difference need something better than a lean, compliance-oriented service. They also need more agency and control over their pathway to employment.

Licensing should be separate and independent from commissioning

If the main program in the new employment services system follows a competitive contracting model, then contracting and performance management systems must be balanced by a licensing system that assures quality and promotes engagement with local communities and employers. This is a key missing link in the *jobactive* program.

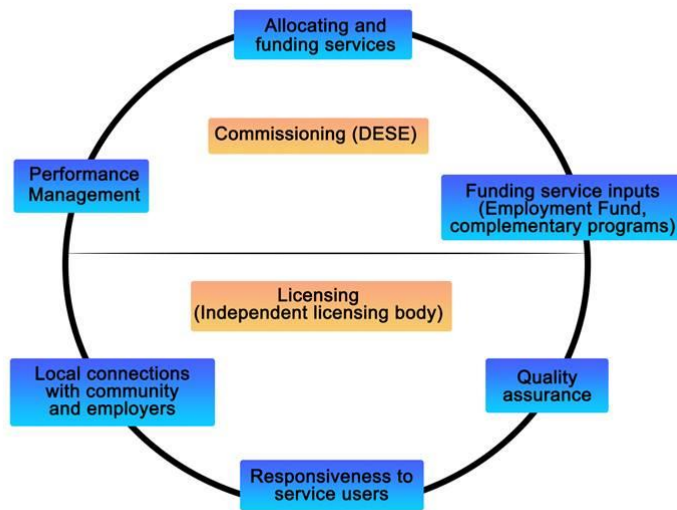
As in other social services such as child care and higher education, the right balance between performance, value-for-money and quality is best achieved by separating commissioning (the purchase of services by the department) from licensing (quality assurance through an independent regulator).

In our proposed model for employment service purchasing, commissioning and licensing would be separate, and each would focus on distinct goals (Figure 3).

³ Employment Services Expert Panel (2019), [I want to work](#), Australian government, Canberra.

⁴ Considine M et al (2012), [From Entitlement to Experiment: The new governance of welfare to work](#), *Australian Report back to Industry Partners*. School of Social and Political Sciences, University of Melbourne.

Figure 3: A model for commissioning and licensing employment services



Commissioning should be undertaken by the department

Commissioning, which should be undertaken by the Department of Education, Skills and Employment (DESE), has three elements: the allocation of contracts to provide services (including so-called ‘business shares’), performance management and direct funding of service inputs (such as wage subsidies and training).

If a competitive contracting model is adopted, services should be allocated to a fixed number of providers in each Employment Service Area (ESA), along with scope for providers to specialise in population groups with recognised special needs and support for recruitment into particular industries. This is consistent with options raised in the Discussion Paper, but we favour the smaller ESAs rather than the larger regions as the geographic basis for awarding contracts.

In 2015, when jobactive contracts were awarded by employment region instead of the smaller ESAs (as was the case previously), the number of providers shrunk from around 100 to 40, and many high-performing locally based providers left the system. This should be reversed to strengthen diversity and local governance in employment services.

Performance management systems such as payment-to-outcomes can sharpen providers’ focus on the main objectives of employment assistance and improve cost-efficiency. Yet 25 years’ experience with contracted employment services in Australia shows that performance management systems, however finely tuned, cannot guarantee cost effectiveness. It is difficult to measure the value-added by employment services, and over-zealous performance-management is the enemy of diversity and innovation.

Consequently, successive governments have increasingly invested directly in service inputs such as such as wage subsidies and training. The Employment Fund, a quarantined resource for investment in help for people disadvantaged in the labour market, is another attempt to balance direct funding of service inputs and local flexibility.

Experience indicates that a combination of funding-to-outcomes and service inputs (especially investments in people with labour market disadvantage) is needed.

Licensing should be undertaken by an independent statutory body

Licensing, which should be undertaken by an independent statutory authority, should focus on quality assurance and improving the responsiveness of services to their users (employers and people who are unemployed) and local communities (including the active collaboration with other local services that is often needed to secure employment for people disadvantaged in the labour market).

Recommendations

Evaluate the costs and benefits of competitive contracting

1. The costs and benefits of competitive contracting, and the role of for-profit providers, should be independently evaluated before the new employment services system is introduced, to answer three questions:
 - (1) whether any benefits of competitive contracting outweigh its costs;
 - (2) impacts of for-profit providers and community-based governance on service quality and effectiveness;
 - (3) whether there are ways to offer choice to service users and manage performance that do not compromise quality and cooperation at the local level.

The purposes of licensing

2. The main purposes of the licensing system for employment services should be to:
 - Ensure that services meet minimum quality standards, and that higher than minimum standards and best practice are encouraged and shared;
 - Support informed choice of provider by service users (people who are unemployed and employers), and provide a mechanism for input and feedback from them on service quality issues and concerns and ensure that providers have effective mechanisms for this purpose;
 - Improve access to the employment services system to new entrants, and diversity of providers, including specialists for groups with special needs;
 - Strengthen connections between services and local communities, industries, and service users with special needs, including by encouraging entry of local community-based organisations into the system;
 - Reduce the need for regular national tenders by facilitating service re-allocation and substitution of existing for new providers as required.

Separate licensing from commissioning

3. As with other social services, the licensing system should be separate from commissioning (contracting) arrangements:
 - *Licensing* should determine whether an organisation can practice as a publicly-funded employment service nationally and in a particular area, and

should focus on organisational integrity governance and capacity, responsiveness to users, and service quality.

- *Commissioning* should focus on the allocation and management of contracts for service in each area and the performance of providers in meeting contracted outcomes, taking account of input from the licensing process on matters within its remit (such as service quality).

A statutory licensing authority

4. (1) As in other social services, a statutory licensing authority with appropriate powers and capabilities should operate independently, and in cooperation with, the commissioning body.

(2) The licensing authority would issue and revoke licenses, and inform the commissioning process, through regular, transparent assessments of providers against benchmark standards of organisational capacity, governance and service quality.

(3) It would work proactively with providers, service users, local service networks, and the department to encourage and share best practice, and report publicly on service standards on a regular basis.

(4) It would regularly seek feedback from service users on service quality including through a feedback and complaints system, and engage with providers and the department to remedy problems as required.

Quality standards

5. The licensing system would be based on two or more quality standards – a minimum standard and one or more higher standards - that include the following domains:
 - (1) Organisational *integrity*;
 - (2) General *operating capacity* (including financial capability);
 - (3) Capacity to provide quality services, including *minimum qualification standards for user-facing staff* developed by an expert panel including employment service providers, service user and community representatives, the department, and education providers;
 - (4) *Accessibility* of services including digital and face-to-face services and access for people with languages other than English and people with disability;
 - (5) *Quality* of services provided, as distinct from performance in achieving employment and other contractual outcomes;
 - (6) *User satisfaction and the responsiveness of services to users* (including feedback and complaints mechanisms and tailoring of employment plans);
 - (7) *Connections with local community*, user and employer networks and capacity to partner with them to improve employment outcomes, based on standards developed by community, employment service provider and service user representatives and the department;
 - (8) *User-responsive governance*: In assessing attainment of the above-minimum quality standards, substantial weight should be given to organisational governance arrangements that are based on and responsive to the relevant local community or service user population (for specialist or industry-specific providers).

In areas where most service users belong to Aboriginal or Torres Strait Islander communities, and for specialist services for those communities, preference should generally be given to services provided by licensed organisations governed by those communities.

The relationship between licensing and contracting

6. Attainment of quality standards would have the following implications for organisations seeking to provide employment services in a given area:
 - (1) An organisation that does not meet the minimum standard would not receive a license, or would have its license revoked;
 - (2) An organisation that meets a standard higher than the minimum would be preferred in the allocation of service shares in the relevant ESA or specialisation - that is, contracts would be awarded in the first instance to organisations meeting the higher standard(s).
 - (3) The standard attained by each provider, and the assessment of the licensing authority underpinning it, would be published in a timely and accessible way so that this information is readily available to service users.

National and local panels of licenced providers

7. Panels of licensed service providers would be established at two levels:
 - (1) A national panel including all license holders, including those holding licenses for a limited number of areas;
 - (2) A panel in each ESA (rather than Employment Region) for providers that hold a license for that area.

Providers could hold generalist licenses (to assist all service users in an area) or specialist licenses (to assist specific industries or groups in the population where the need for such services is demonstrated).
8.
 - (1) Subject to regular monitoring and updating, the number of licenses nationally and in each area would not be limited.
 - (2) Instead, in order to ensure a degree of funding certainty and stability in local employment services, and that performance benchmarks are achieved, the number of providers operating in each area should be limited, and service shares allocated, by the department through the commissioning process.
 - (3) In areas with high and persistent levels of unemployment, small populations, and/or substantial populations of service users who need employment assistance that is closely integrated with other local services; the option to contract a single provider or consortium should be available, where the provider maintains a standard of service above the minimum.
9.
 - (1) Any consortia or sub-contractors should be required to hold a license to provide employment services in the relevant area and be subject to the same accountabilities.
 - (2) Consortia or sub-contracting arrangements would need to be approved by the department, should be transparent, and consistent with good quality, effective services for users.

Acknowledgements

ACOSS prepared this submission in consultation with members participating in its Income Support and Employment Network.

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