Discussion Paper Response

Proposed Licensing System for the
New Employment Services Model

Presented by
NSWALC Employment and Training (NET)

Background

NSWALC Employment and Training Ltd (NET Ltd) has been established to increase the number of Aboriginal people achieving economic independence through improved access to vocational education and training (VET) and sustainable employment.

NET is committed to establishing:

- tailored recruitment solutions for employers to commence, increase and retain their current Aboriginal workforce profile
- new or enhanced economic opportunities for Aboriginal communities to increase their overall Aboriginal employment profile
- partnerships that are committed to the economic development of Aboriginal communities.
- a state-wide pool of Aboriginal candidates to elevate the profile of supply to meet the demands of industry
- innovative projects that improve the accessibility of employment for Aboriginal communities.

NET Ltd provides a significant opportunity for Aboriginal communities through leading by example with innovative and evidence-based solutions designed to link Aboriginal job seekers with employment opportunities available in growth and other industries.

NET is a subsidiary of the News South Wales Aboriginal Land Council (NSWALC) which was established under the Aboriginal Land Rights Act 1083 (NSW) (ALRA). NSWALC is a self-funded statutory authority responsible for protecting and promoting the rights and interests of Aboriginal people in NSW.

NET has the full support of NSWALC and their expansive network of local Aboriginal Land Councils across the state of NSW. It is essential that in today's environment that Government is working very closely with Aboriginal organisations to ensure that policy settings are practical and considerate of the cultural needs of Aboriginal Communities.

In review of the existing market there is clear under-representation of Aboriginal organisations delivering employment services across non remote regions. NET welcomes the opportunity to work alongside Government to ensure that there is a clear Aboriginal voice at the table that in turn would build the confidence of Aboriginal organisations re-entering the sector. We are committed to working with Government on testing and reviewing different concepts to ensure that targets recently outlined in the refreshed Closing the Gap reports are met.

NET brings to the table a clear commitment to support the economic development of our Aboriginal Communities and to ensure that Government has a thought leader in how to shape programs that will meet the needs of Aboriginal Communities. NET also brings to the table their national network of Aboriginal Organisations and the collective cultural wisdom that comes with this network.

Should generalist and specialist organisations be included on the same panel?

The discussion paper outlines a proposed national panel and sub-panels which would effectively map out each Employment Region. The national panel as we understand the approach would list organisations that had been assessed and deemed suitable to deliver employment services in one or more employment regions.

The concept of one panel from a user perspective is ideal as all information is clearly accessible and there is no confusion that could present if there were multiple panels to review.

In developing the single national panel and including all providers we would recommend that the following parameters were listed:

- name of provider/s
- license profile – generalist, specialist, or both
- geographic profile – full / partial employment region
- location of delivery
- site locations (fulltime, part-time, outreach)
- market share
- license commencement and expiry date

Realistically from a provider aspect we would not see any practical advantage of having more than one panel.

How long should the panel be in place for?

It would be important to maintain the existence of the panel for at least four years duration as this will enable the sector to remain agile and responsive to different labor markets and emerging factors. It would be reasonable to suggest that the role of the panel becomes redundant after five years recognising the proposed life cycle of the program is six years. It would be unreasonable to bring in a new entrant into a region within the last two years of the program.

It is important to note that the four-year timeframe is based on the following factors:

- **Community and Industry expectations** – this area is often overlooked as we strive for a sector of high performance and quality. Inadvertently the loss of any provider creates an instant disconnection with industry and the communities they serve. It is important that in any repositioning of the local provision of service that timeframes are considered. We would suggest that two years remaining on the program lifecycle that does not provide time for a new provider to build those important relationships. All stakeholders are aware that the final year of a program lifecycle is fairly disrupted with procurement considerations and the general anxiety of staff as they start to question the stability of their roles. With two years of a contract period remaining we would recommend that a new entrant is not brought into the market and that instead that market share is distributed across the existing high performing provider where you would expect those relationships have already been secured.

- **Financial viability** – it is important for government that we represent a strong and viable sector that can invest in the delivery of employment services across our region. The delivery of employment services is complex and requires considerable investment to ensure that our workforces are equipped both with the tools of trades they require for their roles and that they also present with the key skillsets required to work with the most disadvantaged in our collective communities. Within the first twelve months of operations your revenue is already reduced due to the structure of the payment model (e.g. 26 week outcomes) – this effectively means that providers generally start to realise their real financial position between the 15-18 month period which again highlights the position that bringing new entrants into an Employment Region in the last two years is not practical.

In what circumstances should a panel be refreshed?

Panels should be refreshed where the following issues have been experienced:

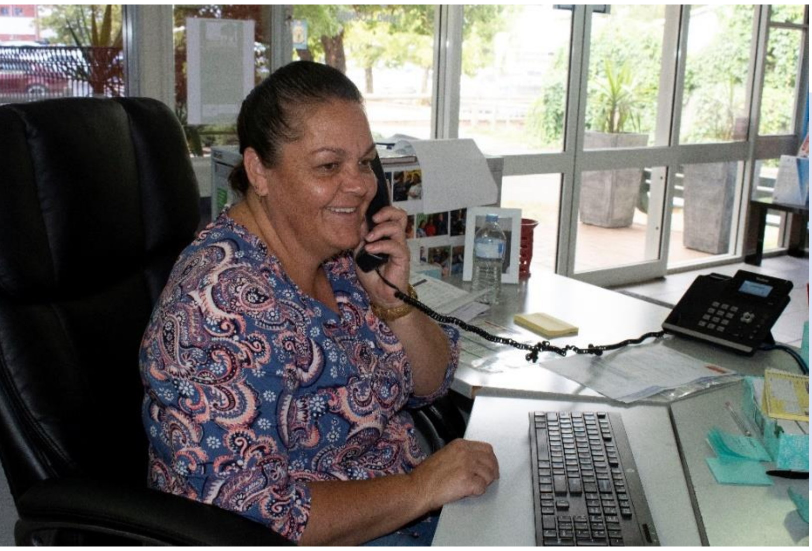
- 20% reduction in the profile of the Employment Region panel due to:
  - exiting provider as a result of low performance
  - exiting of provider from preferred provider list
  - acquisition or transfer of contract

- Acquisition – control points should be put in place that trigger a refresh of a panel where a provider has been acquired by a third party. Existing delivery should be maintained but any preferred provider list should be subject to review and evidence of capacity to deliver in these regions. It will be important for the integrity of the sector that licenses are awarded on capacity and not simply purchased.

- Labor Market Shock – if the dynamics of the region were to suddenly shift e.g. pandemic, natural disaster, industry downturn, and if current providers could not meet the unexpected demand then we would agree that a refresh would be a suitable course of action.

How else could the panel be used?

Like other national panels it would be ideal that listed members on the panel could be approached to undertake new contracts listed for their nominated regions instead of going through a new procurement process. For example, if a new program initiative were introduced in the second year of the contract that licensed and preferred providers for that region would be invited into a restricted tender process.



How long should the licenses be issued for initially?

The proposed three-year license term seems counterproductive in terms of the objectives of the licensing system. The objectives clearly articulate the desire to streamline procurement, rewarding strong performance and balancing flexibility and market stability. Currently all providers are used to working to a business reallocation model that is designed to recognise high performance and respond to low performance.

The concept of a three-year license which can then be extended in blocks of 1 or 2 years seems to add to the procurement process in terms of executing contract variations. It would seem reasonable to suggest an alternate model which would consist of the following elements:

- initial five-year contract with a clear and concise Provider Performance Framework
- clear guidelines on business reallocation for low performing sites

This would ensure that a moderate to high performing provider has a strong sense of business security and can maintain their focus on contract delivery. It would enable stronger planning for operational management as well as continuity for community and industry engagement.

It could be argued that a five-year contract may not reward a high performing organisations but realistically these organisations would still be front and center for any market share redistribution.

The goal should be to reduce the amount of time government and providers must go through the process of procurement and contract variations. As we enter the fifth year of the contract a simple roll over process should be adopted for high performing providers with moderate and low providers to go through a new contract extension process.

A five-year contract also generates an environment that encourages and enables providers to reinvest back into the labour markets they are servicing while at the same time building their own capability internally

Should an Organisation be allowed to service areas smaller than an Employment Region?

This does present the opportunity for smaller organisations to enter the sector that already have a strong foundation within the nominated community. The challenge for government to overcome is that smaller communities do not become further isolated through this approach. Market share is critical in determining how providers can provide an accessible service to an entire employment region. As market share reduces so does the capacity to support smaller bespoke communities through an outreach model.

The engagement of providers to service smaller areas may address the challenge of outreach services in smaller communities as these services would already have an existing infrastructure to work from. At the same time, it would also be important to work through how these providers could be supported by providers who are servicing the entire Employment Region.

Should the number of licenses be capped in each Employment Region?

Yes, it is important that lessons learnt from other licensing models are adopted and that we set up a licensing structure that enables both viability and agility. It is important for the quality of service provision that initial providers are awarded licenses based on their capacity and that this comes with a healthy market share that promotes innovation and market stability.

If an abundance of licenses is issued this could effectively lead to a question regarding the integrity of the license and the quality of the panel overall.

When should new licenses be added into a region?

In continuing our view that each Employment Region should have a capped number of licenses we would suggest that a new license is added to a region when an existing license provider is exited.

If a provider is exited out of the Employment Region due to low performance, business failure or compliance, then there should be a clearly understood process for replacing that licensed provider – this should be drawn from your preferred supplier list. If this occurs in the last two years of the contract lifecycle however, we suggest that the license is suspended and that all market share be absorbed into existing high performers.

In what circumstances should short term licenses be issued?

Our recommendation is that short term licenses be avoided where possible as they generally provide too high of a risk for the reputation of the sector in terms of addressing both community and industry expectations. A license that is shorter than 18 months really needs to be scrutinised in terms of the impact that this will have on local community and industry.

We would only recommend the issuing of a short-term license in the following scenarios:

- Significant performance issues as the Employment Region level where current high performing providers do not have capacity to take on additional market share
- Major employer retrenchment or downturn – it would be reasonable to issue a short-term workforce specialist license to support the demand
- Significant natural disaster or pandemic where caseload number shave increased – it would be reasonable to extend the number of providers to accommodate the increase in need.

How many performance groupings should there be?

We are comfortable with the proposed performance grouping of high, moderate, and low performance. Employment services provider are used to this approach with the current star rating system. It is important though that trend data is always considered in these classifications as that sometimes represents a completely different picture of how a provider is performing.

This becomes more important when determining a license review and whether to award a license extension.

How frequently should License Reviews occur?

We would recommend that 18 months be set as the standard for a license review – this would allow providers time to adjust performance trends if required. This also recognise the impact of 26-week outcomes on a provider's performance and the lead in time required to adjust low performance.

How often should providers receive performance data?

Providers should have the ability to draw down their own performance data every week. Majority of providers now have established infrastructure and third-party systems to enable them greater visibility of their trending performance. In addition to this, it would be ideal if providers received formal Provider Performance Framework reports every quarter that provides a comparable examination of their performance at an ESA, Employment Region and National Level. These types of reports are currently supplied by the department and offer great value to providers in assessing their own performance against the wider market.

Should provider performance be publicly accessible?

Yes – we would support the public availability of performance data every six months. The accessibility of public performance data is important for both the suppliers and users of employment services. It provides users an opportunity to select high performing providers as their preferred supplier and in addition from a supplier perspective it provides you the opportunity to benchmark your own performance.

Collaboration is important for this sector and the availability of public performance data provides a degree of trust and confidence when putting forward shared initiatives. The sharing of performance data also enables the opportunity to support low performing providers in more of a business mentoring approach. It is important to consider how a low performing provider is impacting the reputation of the sector and the perception of both industry and government.

When should the first License Review occur?

We would recommend that the first performance review happen between the 18-month period and that it should result in a contract extension for moderate to high performing providers.

Should the first License Review be any different to later reviews?

Yes – the first review should also assess and determine that commitments detailed in a provider's tender are in place. The review should also assess that the legal entity awarded the contract is still the same legal entity and if this has changed should any adjustments be required. We need to ensure that we maintain both integrity and confidence in our sector.

Should cohort specialist only be referred jobseekers from their target cohorts?

No – if there is a position that specialist target cohorts' clients can select to access a generalist provider then this position needs to be replicated.

For example, it would be completely unreasonable for a specialist Indigenous provider to service an Indigenous jobseeker but at the same time advise that jobseeker that they were unable to support their non-Indigenous spouse or partner. This same scenario could be placed forward for all the listed cohort groups in the discussion paper. Job seekers need to have the freedom to select – to limit this could place specialist providers in a very dangerous situation with job seekers. Realistically both market share and tolerance would be able provide the necessary structures to support this freedom of choice.

It would be an interesting public relations scenario if you told an ex offender partner that you could not support them as they were a non-offender.

Which cohorts should have specialists?

We would support all the listed cohorts in the discussion paper, but at the same time we believe one critical cohort has been overlooked and this would be the 55+ mature aged cohort. Repeated papers have been published on the difficulties of this age bracket to re-enter the workforce. Previously we have seen complimentary programs developed for this age group, but they generally come and gone. We would recommend that this is a focus group that needs greater attention as they are becoming one of our most vulnerable groups in society. In review of other countries employment models (e.g. Germany) this cohort has a very strong focus and is also very successful. Realistically this cohort presents with its own culture and barriers and a provider engagement strategy needs to respond to this.

What factors should determine where specialists are located?

The critical factors would be volume and density of the geographic region. Labor market statistics in terms of employment rates and trending data in population growth. The other key factor is the availability of a specialist provider and their capacity to provide a quality service in that region.

How should the new model interact with complementary programs?
(e.g. Transition to Work, Work for the Dole).

It is important to advocate that collaboration does not penalise either program. We need to ensure that any collaboration is built on a model if incentivizing providers and not penalising providers. Time and time again we have seen an agenda of bottom line and politics that has broken down genuine collaboration between complementary programs. A classic example of this is VTEC where mainstream providers are penalise financially for referring their ATSI jobseekers into VTEC roles. Realistically there is limited benefit in this approach and realistically presents as a major roadblock.

How should workforce specialists operate?

The inclusion of a workforce specialist is an interesting concept as it goes to developing a collaborative approach across a region or state. There would be a lot of considerations that would need to be factored in to ensure this approach is successful. Considerations would include:

- There is a need for an Indigenous workforce specialist – Closing the Gap should be at the forefront of government forward planning and the reality is that employers need a lot more support in engaging Indigenous employees. The concept of a generalist workforce specialist would further disadvantage ATSI jobseekers and not meet the current needs of employers who are trying to meet their corporate social responsibility. We would recommend very strongly for the introduction of a ATSI Workforce Specialist provider in each state.
- Funding parameters and Provider Performance Framework need to be clear and concise. Too often we have seen complementary programs or initiatives introduced where there is a negative effect on the Employment Provider. For example, in some cases if you refer a client you lose the financial payment or in some cases your client drops off the caseload. We need all programs to work effectively together and if providers are to engage strongly with workforce specialist providers there needs to be an environment when no party is penalized for this collaboration.

The workforce specialist realistically could be modelled off the National Disability Recruitment Coordinator but at an Employment Region or State level. We would recommend that a state license would be preferable and that the provider would be required to have a physical presence in each Employment Region. The benefit of a state model would be the benefit of collaboration at a larger scale (e.g. national) if the need presented from an industry.

The Workforce Specialist should have key targets listed included:

- No. of outcomes annually
- No. of repeat engagements
- No. of Industry events
- No. of project management projects with major employers
- No. of jobs expo held annually

- No. of wage subsidies secured annually
- No. of pre-employment training initiated and completed
- Annual Industry Satisfaction Survey
- Retention Rate Targets
- No. of cross border activities

The Workforce Specialist realistically could become an additional pipeline for vacancies across the state. You would expect the provider to project manage key recruitment opportunities that are presenting in their areas. For example if a major infrastructure project was due to commence in their region that they would be positioned as the recruitment agent for this project and they would work with all employment providers in their region/state to firstly prepare job seekers for this opportunity but more importantly to position jobseekers into employment.

How should market share operate?

This is a critical factor to the stability of an Employment Region. The allocation of market share needs to have considerable science behind it if the sector is to succeed. There are several factors to consider with this including:

- Caseload numbers will drop based on the introduction of Digital First
- Employment Services no matter which way we look at it is an essential service and we are dealing at times with the most vulnerable and sometime most unpredictable people in our community and there needs to be a duty of care to both our staff and the job seekers we are servicing.
- Enhanced services are the cornerstone of this model – how do we support the most vulnerable more and ensure that we are moving them through a process that will lead them into sustainable employment.
- Our sector has a high turnover rate of staff

Rolling this up we will have a reduced caseload which may result in lower staffing levels, however at the same time we will have a higher need for case management which may mean more staff with lower caseload numbers. The key is to ensure that we have the right balance in market share to ensure we are not setting up offices with one or two staff members. This becomes an immediate operational risk. With KPMG working on the financially modeling their needs to be some consideration to FTE versus caseload and what this effectively looks like for a sustainable market.

We would recommend that market share needs to ensure volume for the market and at the same time diversity. We have seen other programs where too many providers in an employment region has shifted the dynamics of the whole region. There is reference to providers to reducing their fulltime sites to part-time sites – this is realistically due to market share and bottom-line savings. Realistically the communities we are serving would outline that they want services five days a week as unemployment is not a part time condition. To build trust in communities and with industry you need to be available five days a week, and in reality, in our sector we are also available generally on weekends and after hours.

How should tolerance work?

The initial setting of a 20% tolerance would seem reasonable as the initial step and ensured that new entrants into the market had the opportunity to build a caseload.

We would suggest that a two-tier tolerance model is adopted that would include:

- 20% tolerance level for moderate to low performing providers
- 30% tolerance level for high performing providers

All providers need to be able to refresh their caseload to perform under the Provider Performance Framework but at the same time there should be reward and recognition for high performing providers.

Should a portion of market share remain unallocated?

Yes - we would support a model that provides reward and recognition for high preforming providers.

How can the licensing system help cut red tape?

The licensing model seems on first assessment to reduce red tape from a procurement process. Realistically the amount of work to prepare for this tender will not be reduce in any format and will probably increase with the added requirements we have seen introduced since the last jobactive tender.

Where the red tape will reduce is business reallocation which will be welcomed by providers. What is hard to determine is our how digital technology and target communication will reduce red tape. Procurement is a major exercise for all providers but when providers refer to red tape this is often targeted at the compliance, accreditation, and complex guidelines that we must navigate our way through.

It is a positive step to move forward with a goal of reducing red tape, but the focus must go beyond procurement and more into the areas of compliance and reporting because this is the area that providers would classify as red tape that is impacting their core business and delivery. Ideally it would be a considerable step forward if government call for providers to work with them on a focus group approach in how to simplify reporting and compliance requirements to genuinely reduce red tape across our sector.

What would assist smaller organisations to enter the provider market?

There are several good examples put forward in the discussion paper, but we would suggest the following would be beneficial:

- Guarantee market share that enables the provider to operate in the Employment Region
- Ability to tender for smaller geographic areas as opposed to a full Employment Region
- Different funding model for small providers entering into a specialist license recognising the unique challenges and profile of these cohorts.
- The investment in the upfront engagement fee to support the early investment
- Availability of government grants to build capacity in keys areas such as IT advancement and specific accreditation – this would encourage specialist providers to enter the market and enable government to demonstrate diversity across the sector meeting current Government priorities.

What measures could be included in the Provider Performance Framework?

Previous Provider Performance Framework have been consistent in how they assess performance. We would recommend that the key features include:

- Speed to engagement (referral to commencement)
- Speed to placement
- Employment / Education outcome rates
- Pathway outcomes
- Social outcomes need to be introduced
- ATSI outcome rates
- VLTU bonus performance ratings
- Jobseeker and Employer Satisfaction

What features in the Provider Performance Framework would support the classification of high, medium, and low performance?

As noted above, this would come down to comparative date across the Employment Region considering the regression model.

How can the department ensure job seekers and employers receive a quality service?

The first step to answering this is that we need to be clear about our role as an employment services provider> Is it to place people into employment or to monitor the participation and mutual obligation requirements of job seekers? The challenge for providers is that we are aiming to build strength-based model that is focused on both capability and capacity but instead we are inadvertently placed in a position where we are influencing jobseekers' payments.

If we are to develop a culture of quality service, we need to understand that this is influenced by market share and the proposed payment model that will compliment this program. We have continually seen payment models of employment services reduce over time and more engineered towards 26-week outcome.

The funding model of previous contracts places considerable pressure on providers to fast track their clients into employment without the necessary interventions to address their barriers. The spin off effect of this is positioning job seekers into employment with pre-existing conditions and barriers that are unresolved and shifting the management of these conditions to the employer. The challenge for providers is that the payment model had driven this behavior.

Employment Services are about placing people into employment – no-one would argue this - but at the same time we need to ensure we are not setting people up to fail or placing them at risk. Looking at the discussion paper the most job ready jobseekers are going to be self-managed in Digital First from government. If we flip this upside down this means that the most non-job ready clients are going to be positioned with providers who will need to offer a higher level of case management support to assist them to move through to employment. This takes times and if funding models are not adjusted to recognise this upfront investment then we will continue to have question marks on the quality of employment services by local industry.

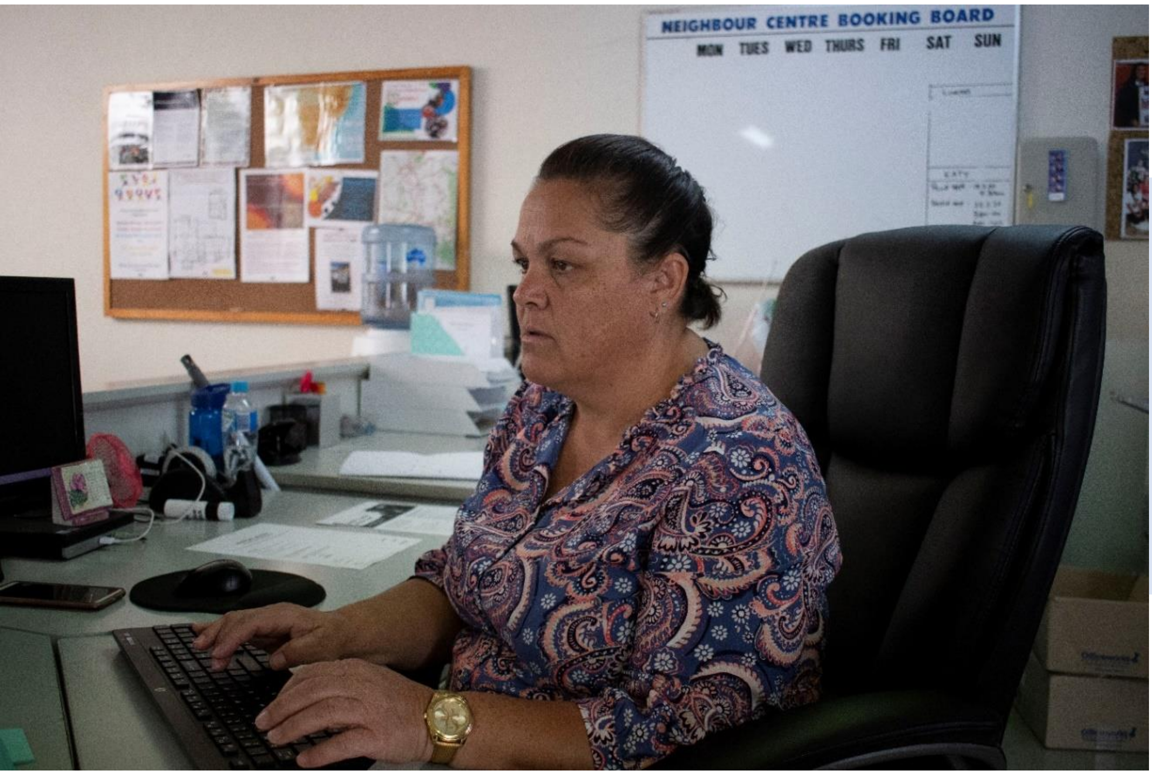
Employment Services have continually been criticised as this hungry cash cow but the reality that is overlooked is that we are dealing with the most disadvantaged people in our communities. Employment Services are consistently at the front line addressing the social and human issues that jobseekers walk with into our office every day. Previous funding models have ensured that caseload numbers have increased dramatically for employment consultants, compliance requirements have shifted with providers forced to invest into compliance tools and not their frontline staff capability.

Their needs to be a considerable rethink in how the payment model drives behaviour across our sector. If we are genuinely asking the question in how can the department ensure that job seekers and employers receive a quality service then their needs to be a genuine openness to hear the response which is greater investment upfront to support clients overcome their barriers and greater investment in providers to be able to meet employer requirements. The department needs to look at how they reduce red tape so providers can reinvest in innovative practices and invest back into their own staff capability. There is no surprise that we have high industry turnover where we have providers setting up offices with one or two staff in them and positioning staff to work with job seekers that unfortunately can be unpredictable in responding to their mutual obligations or in some cases just the frustration of being unemployed.

How can provider's cyber security be improved in the new model?

The shift to the Right Fit For Risk (RFFR) is a welcomed introduction for providers, especially those entering the market. The statement of an initial questionnaire to determine a base level understanding of our organisation is welcomed. We understand that the process is very complex, costly and a major investment of time from providers to obtain and then comply. We would welcome the opportunity to work alongside government in looking at how new entrants approach this task and working through the investment requirements.

The investment required to achieve needs to be recognise by the department and a new shared investment approach adopted so that not all cost is covered by the provider. The cost implications of this requirement is deterring new, smaller and diverse providers from entering the market.



What would ensure an effective transition from jobactive to the new model?

There are a few factors that would support an effective transition from jobactive to the new model – these would include:

- Significant testing of the government's IT infrastructure to ensure that there are no disruptions to connectivity.
- Greater lead in time to ensure that exiting providers can exit with grace and that new providers entering the market have suitable time to set up offices
- Greater project management from government for exiting providers to ensure they are supported and that transition plans are established at an Employment Region level
- Access to job seeker caseload in advance of the opening date for providers to review and to set up their own internal infrastructures
- Advance payment to all providers offsetting the investment requirements initially to establish new offices
- Guarantee market share that materialise for providers and no transfers for the first quarter to ensure that the market stabilises
- Proactive marketing of the new model to the public to assist with the transition to the new model and the introduction of Digital First
- Clear engagement with providers monthly for the first six months to ensure that issues are recorded and addressed to ensure that government and providers are working proactively together. This could effectively be positioned as an industry / government implementation group at an Employment Region level.

What lessons can be learnt from previous program transitions?

There have been plenty of lessons learnt from previous programs transitions – these include:

- That the best laid plans can fail without the proper testing and control environments.
- That IT systems can be completely unpredictable, and that government needs to ensure that they have workarounds for any system crashes.
- That historically the lead in time for new sites to be set up has been too short
- Exiting providers still have a contract to deliver on and leasing conditions (make good) to honor which at times limits their ability to exit a facility enabling a new provider to move in and be ready by 1 July 2020.
- Guaranteed market share does not always eventuate leaving providers over resourced and at risk

There is a major requirement for the department to take a leading role in the overall transition of programs. Greater attention to communications is required both from a provider aspect but as well as the users of our service.

There needs to be clear commitment to reducing any disruption of service and that comes with greater lead in time for providers to set up offices and infrastructure; more flexibility for exiting providers, and targeted co-ordination of local services for the first six month of delivery.

For any further questions please contact:

Matthew Clarke
Chief Executive Officer

NSWALC Employment and Training (NET)
t +61 2 9689 4489
m +61 428 441 400
e matthew.clarke@alc.org.au