

The Department of Education, Skills and Employment

Proposed Licensing System for the New Employment
Services Model Discussion Paper
September 2020

Response submitted by:

AMES Australia

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Summary

Options

Panels

Regional sub-panels are long term (up to ten years) and include both Generalist and Specialist providers.

Licences

Licences in each Employment Region (ER) reflect the interdependencies of:

- the number of job seekers
 - demographics (specialist cohorts, number of actual job seekers per cohort)
 - what constitutes a viable market share
 - the number of licences – generalist and specialist
 - how market share of generalist and specialist licences is adjusted to accommodate industry licences
- The number of licences in each ER should be capped to reflect financial viability for providers and be based on absolute numbers of job seekers, not percentage market share.

Licence reviews

Panel members granted licences have been assessed by the Department as having proven capacity and capability to deliver the service; on-going, 'light touch', formative review can ensure continued compliance and performance.

- The Australian Skills Quality Authority (ASQA) provides an alternative model which relies on a thorough initial assessment before approving providers, followed by 'light touch' annual review based on the risk profile of the organisation.

Cohort Specialist licences

Specialist Cohort should include, but not be limited to, job seekers from Culturally and Linguistically Diverse (CALD) backgrounds, refugees, youth, CALD youth.

Given the greater number of vulnerable clients within a specialist cohort both the funding model and performance framework needs to be sufficiently flexible to recognize the variability in speed to placement and additional support required to ensure sustainable outcomes.

Location of Specialist Providers should be driven by demographic data. There needs to be (i) a need and (ii) sufficient numbers to be financially viable.

Market share

Market share and the number of licenses issued in a region are intrinsically linked. The market should dictate the number of viable licences and market share allocation to be sufficient to allow businesses to remain financially viable.

Performance Framework

To ensure 'a quality service' performance measures need to acknowledge/reward non-employment outcomes and include indicators beyond the current 'Star Rating' measures such as customer and employer satisfaction. (see **Gaps**)

Managing performance

Under the proposed Licensing System, provider performance can be managed through a number of checks and balances: licence review; performance measures; market share; tolerance adjustments.

Applying one performance management method will deliver results and further reduce red tape.

- Licence – underpinned by performance measures
- Or
- Market share adjustment - and tolerance levels (if tolerance is included in the new model)

Gaps

Performance measures

Performance measures, which will impact significantly on licences, length, retention, extension and renewal of licences, are not included in the Discussion Paper.

The funding envelope and payment structure

Proposed service fees and outcome payments for providers have not been included in the Discussion Paper.

Generalist vs Specialist licences

The Discussion Paper does not address length of licence, performance, caseloads and/or market share in relation to the different licence types.

Chapter Responses

Chapter 2: Establishing a panel

Response	Rationale
Regional sub-panels should include both Generalist and Specialist providers.	<ul style="list-style-type: none"> Reduced red tape; checks and balances in place; all are aware of any specialists in the ER.
Panels should be in place for longer terms - up to 10 years.	<ul style="list-style-type: none"> Provide some certainty for providers; reduce red tape; proposed checks and balances make short term panels unnecessary; panels can be refreshed at any stage - would be redundant if in place for short terms. In addition, licences will be reviewed at regular intervals over the duration of the panel.
There are a number of additional roles for panels.	<p>Panels could:</p> <ul style="list-style-type: none"> act as consultative groups; leveraged into other initiatives in the region, eg Taskforces inform Department in ways similar to SEE/AMEP Provider networks determine exceptional licences to meet local conditions.

Risks

Being on the National Panel does not guarantee a licence or market share.

Panel members without a licence will still need to maintain 'operational readiness'.

- This would be at a cost to providers which may take smaller providers out of the market.
- The Department's right to alter the composition of the panel and the number of available licences based on performance and labour market conditions creates uncertainty for non-licensed panel members.

Chapter 3: Issuing contractual licences

NOTE: In the absence of information on the proposed performance measurement framework it is difficult to comment on all aspects of the proposed licences, e.g. length of licence. The following raises some additional points for consideration.

Response	Rationale
The number of licences in each ER should be capped to reflect numbers of job seekers, revenue streams in a region.	<ul style="list-style-type: none"> Licences need to reflect financial viability for providers and be based on absolute numbers of job seekers, not market share.
Should licence duration be related to the life of the Panel?	<ul style="list-style-type: none"> Proposed licence reviews, extension periods and the Department's right to terminate a licence provide sufficient checks and balances to manage non- or poor performance.
Should all licences (specialist and generalist) be the same length?	<ul style="list-style-type: none"> Length of licences is dependent on how performance is measured; specialist and generalist performance may be measured by different rubrics/KPIs.
An organisation should be allowed to service areas smaller than an ER.	<ul style="list-style-type: none"> Allows smaller local providers to operate in their local area; allows specialist providers to service niche, geographically contained cohorts.
New licences, including short-term licences, should be added to a region as determined by the panel in response to local ER conditions, with the panel determining (i) length of licence; (ii) level of servicing.	<ul style="list-style-type: none"> 'Surge' licensing needed to respond to local conditions/events (e.g. bushfires, pandemics); not useful to set a duration or timeframe; local panel in best position to determine.

Risks

Number of licences: potential conflict between (i) providing diversity of service providers and (ii) ensuring financial viability for licenced providers.

Inherent risk for providers if licensing in each ER does not reflect the interdependencies of:

- 1 the number of job seekers
- 2 demographics (specialist cohorts, number of actual job seekers per cohort)
- 3 what constitutes a viable market share
- 4 the number of licences – generalist and specialist.

Chapter 4: Licence reviews

Again, the absence of information on performance indicators and measures makes it difficult to comment on the number of performance groupings or whether provider performance should be publicly accessible. The following raises some additional questions for consideration.

Response	Rationale
Will / how will groupings differentiate between Generalist, Cohort Specialists, Industry Specialists?	<ul style="list-style-type: none"> ▪ Performance groupings/ratings will necessarily be determined by the measures used to rate providers' performance.
Will performance measurements apply a human service model that reflects the values of client outcomes and value innovation i.e. providing outcomes for clients?	<ul style="list-style-type: none"> ▪ Employment Services are a human service; concerned with the livelihood of people; compliance framework may not be commensurate with this.
Proposed level of review scrutiny is extreme. The Australian Skills Quality Authority (ASQA) process for Education provider regulation (approval and review) provides an alternative model; involves a thorough initial assessment before approving providers, followed by proportional 'light touch' annual review.	<ul style="list-style-type: none"> ▪ Successful panel members granted licences have already been assessed by the Department as having proven capacity and capability to deliver the service; on-going, 'light touch', formative review can ensure continued compliance and performance.

Risks

There are potential risks in making performance data publically accessible, however, without access to the proposed performance measures and framework these can only be raised as questions.

- Will performance measures be transparent and easily interpreted by the public?
- Will clients/other referring agencies be able to easily compare performance across different licence categories?

Chapter 5: Specialist licences

Response	Rationale
Cohort specialists should be referred clients from their target cohort. This should not preclude job seekers from outside the specialist cohort choosing a provider who is a nominated Cohort Specialist.	<ul style="list-style-type: none"> ▪ User choice: Cohort Specialists, while customising services for their specific cohort, will deliver the same range of services as generalists.
Specialist Cohort should include, but not be limited to, job seekers from Culturally and Linguistically Diverse (CALD) backgrounds, refugees, youth, and possibly CALD youth refugee/CALD women. Other specialist cohorts could include: Mature Age, Parents, People with Disabilities, Ex-offenders.	<ul style="list-style-type: none"> ▪ Research demonstrates that migrants and refugees (in particular) face multiple barriers to gaining secure employment appropriate to their skills. Effective strategies including additional, targeted interventions and supports and a longer time in services are often needed to achieve sustained employment outcomes for these cohorts.

Location of Specialist Providers should be driven by demographic data; including (i) a need and (ii) sufficient numbers to be viable.	<ul style="list-style-type: none"> ▪ Licences need to respond to client profiles in the ER and represent financial viability for providers (see Chapter 3).
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Risks

Providers allocated a Cohort Specialist licence where there are small populations of the specialist cohort will not have financially viable business if they are not also allocated a Generalist licence for the same region.

Chapter 6: Market share

Response	Rationale
Market share and the number of licenses issued in a region are intrinsically linked. The market should dictate the number of viable licences and market share allocation to be sufficient to allow businesses to remain financially viable.	<ul style="list-style-type: none"> ▪ Too many licenses with limited market share impacts financial sustainability and viability for all providers in a region; impacts capacity to adequately support job seekers.
Evidence/indication of numbers of job seekers, demographic profile data in ERs and indicative market share needs to be released with the Exposure Draft of the RFT and the final RFT. Providers' responses to indicate the minimum market share they deem viable.	<ul style="list-style-type: none"> ▪ Allows analysis of financial viability by tenderers prior to submitting bids.
Market share and tolerance: will the Department be able to change a providers' market share during the term of their licence? If so, is there any purpose in tolerance?	<ul style="list-style-type: none"> ▪ Market share adjustments perform the same function as adjusting caseload through tolerance. Removing this will reduce 'red tape'.

Risks

Market share for Generalist and Cohort Specialist providers needs to reflect the interdependencies described in our response to Chapter 3.

Risk for providers if market share allocations in each Employment Region do not accurately reflect:

- 1 the number of job seekers
- 2 demographics (specialist cohorts, number of actual job seekers per cohort)
- 3 generalist and specialist licences
- 4 what constitutes a viable market share
- 5 how market share is impacted by industry specialists.

Chapter 7: Red tape reduction

Response	Rationale
The application process is streamlined: one application for a national panel membership of longer duration; covers application for multiple sub-panel memberships in different ERs; and generalist and/or specialist licences.	<ul style="list-style-type: none"> ▪ Providers not required to prepare (and Department not required to assess) multiple tender responses if applying for multiple ERs, different cohorts; stand-by panel members ready to step in if a licence is terminated – no need to go through licencing application process or market share reallocation; less resource intensive tendering process, more equitable for smaller providers. ▪ Annual performance review rather than quarterly review will reduce red tape (see Chapter 8 below).
Licences allow a provider to provide service out of one small area.	<ul style="list-style-type: none"> ▪ Could enable smaller providers with fewer human resource and capital to join the panel. ▪ Adds diversity without spreading licences too thinly.

Chapter 8: Performance Framework and cyber security

Response	Rationale
Will / how will performance measures and groupings differentiate between Generalist, Cohort Specialists, Industry Specialists?	<ul style="list-style-type: none"> Performance measures need to be determined and known before making comment on/determining performance groupings.
<p>To ensure 'a quality service', performance measures need to acknowledge/reward non-employment outcomes and include indicators beyond the current 'Star Rating' measures.</p> <p>Access to regular performance data and annual review cycles will support 'a quality service'.</p>	<ul style="list-style-type: none"> 'Quality service' includes delivering against: client satisfaction, employer satisfaction, social outcomes, improved client wellbeing, movement of clients across tiers, as well as employment outcomes, QAF / ISO principles, compliance indicators. Availability of regular performance data and annual performance review, rather than quarterly (as with current star rating), would allow providers a better view of their overall performance over a one-year period; annual review would allow time to alter performance strategies in response to short term variations.
An evaluation of any impact on cyber security of changes to providing services during the COVID-19 pandemic needs to inform cyber security moving forward.	<ul style="list-style-type: none"> Opportunity to identify and learn from gaps in providing secure services emerging during this period, i.e. use of email without security functions; particularly significant when proposing to move to a digital servicing model.

Risks

The Department proposes adopting the *Right Fit for Risk* approach, based on a customised ISO 27001 Standard which has 114 controls in 14 groups and 35 control categories; the 2005 standard had 133 controls in 11 groups.

- Increased compliance requirements ie, QAF, ISO 9001, ISO 27001 will add more 'red tape' for providers
- To remain on the Panel, providers will need to ensure that their ICT systems remain fully compliant with the Department's standards.
This requirement extends to providers who have not been granted a licence or case load and would impose a financial burden, especially on smaller organisations.

Chapter 9: Next steps

Response	Rationale
Effective transition requires sufficient time to blend from old to new, not an 'overnight transfer' from the old service to the new model.	<ul style="list-style-type: none"> Transition in a matter of days is impossible with a comprehensive engagement model so the transition in time needs to be extended to ensure quality is not compromised.
Learning from previous transitions: all existing clients need new job plans.	<ul style="list-style-type: none"> Transition to a New Employment Services Model necessitates new job plans for clients already in the service, as well as new clients, to reflect a changed servicing model.

Risks*Servicing only the most disadvantaged job seekers*

In the New Employment Model, providers will service the most disadvantaged job seekers exclusively. These clients have the most significant barriers to employment, take longer to become 'job-ready' and employable, and are therefore the most expensive to service.

- There is a financial and reputational risk to providers if the funding model and performance measures do not recognise this.