Whose mission: the pervasive impact of the JSA contracting environment and the impact on not-for-profit organisations.

Abstract

This paper examines the outsourcing of employment services in Australia in 1998 to non government entities and the control mechanisms that government has implemented to ensure accountability. Institutional theory and principal agent theory provide insights into how relationships emerge between the purchaser and provider of contracted services and the impact that this can have on the way not-for-profit organisations deliver services. This paper is based on the findings from a study of four not-for-profit organisations delivering federally funded employment services and explores the impact that the tightly controlled contracting environment has on the mission and behaviour of these organisations

Introduction

New governance models aimed at dismantling government bureaucracies and making government organisations more efficient and accountable emerged in the 1990's (Considine, 2001, 2003; McDonald, 1997; Ramia & Carney, 2003). These new approaches, often grouped under the banner of new public management, represented a major strategic shift in the way public services are defined and delivered (Considine, 2001:5). The new public management (NPM) reform agenda includes the privatisation of public services and the establishment of market-type approaches in the delivery of a range of health and community services (Carson & Kerr 2010; Lyons & Passey, 2006; Rix 2005). The underpinning premise of NPM is that a market-oriented approach improves performance and that incorporating private agencies in the delivery of public services will produce cost effective outcomes (Considine, 2001; Hood, 2000; Lyons, 2007, Ramia & Carney, 2003; Walker, Brewer, Boyne, & Avellaneda, 2011). While a key intended outcome of NPM is to improve the efficiency of the public sector, the advent of market-type approaches has had a significant impact on the not-for-profit organisations resulting in them embracing the management practices and corporate strategies more common to the for-profit sector (Considine, O'Sullivan & Nguyen, 2014; Ramia & Carney, 2003). Anheier (2009:1084) contends that the privatisation aspect of NPM 'casts non-profits essentially in a neoliberal role'. The area where NPM reforms is most evident at a federal

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level in Australia has been in employment services where for-profit firms and voluntary sector organisations referred to as not-for-profit organisations have been contracted to deliver services that were formerly provided through the public sector organisation, the Commonwealth Employment Service (CES) (Considine, 2001; Cooper, 2011; Dockery, 1999; Marston & McDonald, 2006, 2008; Rogers, 2007). In fact it has been argue that Australia's contracted employment services are analogous to a textbook experiment in NPM (Ramia & Carney, 2003). The employment services environment in Australia has been tightly structured through the 'imposition of a powerful and controlling regulatory framework that is enforced through the mechanism of the employment services contract' (Marston & McDonald, 2008:257).

Whilst for-profit firms also deliver employment service, this paper examines the particular challenges confronting not-for-profit (NFP) organisations in marrying the requirements of the employment services contract with their unique social mission. This paper argues that the pervasive power and influence of the contracting environment has the potential to subvert the mission and values of NFP organisations, positioning them as agents of the state rather than independent organisations. Data has been obtained from a study of four NFP organisations delivering contracted employment services. The findings contribute to the growing body of knowledge on principal agent theory in explaining the behaviour of the various actors within government contracting regimes. This research confirms the potential for mission drift amongst NFP organisations particularly when those organisations are dependent on government funding for their organisational survival.

Australia's modern employment service

Australia's privatised employment services began in 1998 with the closure of the CES and in its place a quasi-market was established comprising over 300 not-for-profit and for-profit organisations. These organisations were contracted by the Department of Education, Employment and Workplace Relations (DEEWR) to provide employment services on behalf of the federal government under the umbrella name of Job Network (JN). In the early days of JN there was a great deal of flexibility built into the system. Agencies were permitted to act as the expert and deliver employment services according to their own formula, and in keeping

with their mission. This flexibility was achieved in part by the establishment of a black-box model, which enabled organisations to determine how they would deliver services (Considine, 1999; Finn, 2008; Thomas, 2007; OECD, 2001, 2012). Changes introduced in the 2003 contract period shifted the employment services system away from the black-box model towards a more prescriptive, transaction based approach known as the *Active Participation Model* (APM) (DEWR, 2002). In 2009, the employment services system was further refined and JN became Job Services Australia (JSA). The 2009 contract changes established a new approach to service delivery, known as Stream Services (DEEWR, 2009). This included four service levels or streams that defined the level of assistance to be provided to different categories of jobseekers. For example, Stream 1 services targeted the more job-ready jobseeker and provided a very basic level of assistance. The level of assistance increased incrementally through Stream 2 and Stream 3 to assist jobseekers in need of training and support. Stream 4 services targeted the most highly disadvantaged jobseekers with multiple vocational and non-vocational barriers (DEEWR, 2011:24). There have been six contracting periods since 1998. Each new contract has involved substantial adjustments in the structure of the market and a contraction in the number of service providers (OECD, 2012; Thomas, 2007). As at March 2014, there were 80 private organisations delivering these outsourced employment services in Australia (DoE, 2014). It has been suggested that the contraction in the number of providers reflects a desire by the purchasing department to consolidate the privatised employment services network as a highly regulated quasi-market (Eardley, 2003).

When governments outsource services to private organisations, public officials come under increased pressure to ensure the accountability for government funds (Denhardt & Denhardt, 2000). Over time, the microscopic monitoring of contracted organisations tends to become more pronounced and often results in new regulations, changed contract requirements and increased administrative oversight (Lipsky & Smith, 1993). As a consequence, private contractors are likely to come under tighter scrutiny and control by government (Mulgan, 2006).

In the contracted employment services field in Australia; the purchasing department, the Department of Employment (DoE) has a central role as the sole principal in administering and managing the contracted environment and uses its dominant position to ensure contract

compliance through a series of detailed processes (Considine, Lewis & O'Sullivan, 2011; Struyven, 2014). These processes and practices are clearly defined in a lengthy contract document known as the *Employment Services Deed 2013-15* (the Deed). In addition to the obligations set out in the Deed, JSA providers are required to follow the series of 'guideline' manuals issued by the purchasing department periodically. It has been estimated that there are over 3000 pages of JSA rules (The Nous Group, 2010:12). The purchasing department exercises power over the organisations contracted to deliver JSA services through a contract compliance regime that includes a program of regular audits of the various transactions involved in delivering services, for example, assessment of jobseekers, development of Employment Pathway Plans, use of the Employment Pathway Fund, claims for payment etc. The purchasing department has strengthened its focus on administrative compliance, over the past 10 years and this has resulted in increased complexity and 'red tape' (Considine et al, 2011; Shergold, 2012; The Nous Group, 2010).

The role of JSA organisations in implementing government policy

On the face of it, the mission of not-for-profit organisations involved in the delivering contracted employment services, aligns with the goal of government to assist jobseekers to find sustainable employment, thereby increasing workforce participation. Advocates for the unemployed are in agreement with government that employment provides a pathway out of poverty for disadvantaged people and having a job provides individuals with a sense of purpose and assists in building confidence and self-esteem. However where there is potential disagreement is the increasingly coercive and punitive approach towards unemployed that seems to be embedded within government policy (Considine, 2001:178). The focus on so called 'welfare dependence' has resulted in making receipt of income support a stigmatised condition (Bessant, Watts, Dalton, Smyth & Watts, 2005:10; Considine, 2001: 180).

The particular government policy stance in respect to the unemployed is framed through the concept of Mutual Obligation (MO). Stewart (2007) argues that the relationship between JSA providers and their clients is constructed and mediated by a policy lens that takes a somewhat punitive approach to the unemployed. Mutual obligation policy, continues to be a contentious area for advocacy groups and not-for-profit organisations, particularly those that are

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concerned about the impact of financial sanctions in entrenching poverty for disadvantaged groups (ACOSS, 2002; Jones, 2001).

The concept of mutual obligation is enshrined in Social Security legislation, in what is known as the Activity Test. Mutual obligation is described as follows in the Guide to Social Security Law,

> '[T]he concept of 'mutual obligations' refers to the general principle that it is fair and reasonable to expect unemployed people receiving income support to do their best to find work, undertake activities that will improve their skills and increase their employment prospects and, in some circumstances, contribute something to their community in return for receiving income support.' (Guide to Social Security Law: 2014).

Mendes (2003) argues that the philosophy of mutual obligation is generally associated with a punitive approach that results in fines if unemployed people breach their obligations. Kinnear (2000) asserts that unemployed people are penalised by society in two ways. Firstly they are denied the opportunity to work and secondly they are subjected to a stick approach if they receive government income support. Furthermore, the concept of mutual obligation has been likened to the 16th Century ideology of 'deserving' and 'undeserving poor' (Bessant et al, 2005; Castles, 2001; Garland & Darcy, 2009; Mendes, 2003;).

Attaching specific work and/or training requirements to those in receipt of government income support, through an Activity Test, is not isolated to Australia. In fact active labour market strategies or activation policies are increasingly common across the OECD countries [Organisation for Economic Cooperation and Development], (OECD, 2007). Active labour market strategies require unemployed people to participate in activities that in theory are designed to assist them to gain employment (OECD, 2012). Proponents of these approaches argue that mandating compulsory work and/or activity requirements is necessary in order to motivate the unemployed to maintain a focus on job searching (Abbott, 2000; Baker, 2013:13; Field, 1997:61; Mead, 1997a: 25; Saunders, 2008). These views are derived from paternalistic concepts that argue that the unemployed must be managed using a hassle and help or carrots and sticks approach in order to assist them to improve their employability (Brown, 2009;

McClure, 2000; Mead, 1997:65).

In Australia, payment of government unemployment benefits, known as Newstart Allowance is conditional on jobseekers registering with a JSA provider and agreeing to undertake a range of activities referred to as participation requirements. Participation requirements are recorded in a document called the Employment Pathway Plan (EPP). In summary, these requirements include attending regular interviews with the JSA provider, undertaking training or voluntary work activities, actively looking for work and accepting job offers. If a jobseeker is deemed to be in breach of any of their participation requirements, the JSA provider has the responsibility of submitting a Participation Report to Centrelink - the government agency responsible for monitoring the Activity Test (Disney, Buduls & Grant, 2010). While Centrelink has the ultimate responsibility for deciding whether to apply a sanction to the jobseeker, the JSA provider is nonetheless required to make the decision to complete a Participation Report when a jobseeker fails to comply with his or her Employment Pathway Plan.

Being required to police the unemployed has presented ethical dilemmas for NFP organisations (Eardley, 2002; Murphy, Murray, Chalmers, Martin & Marston, 2011:12). A number of welfare groups and researchers groups have expressed concern at what they perceived to be coercive and punitive approaches used to engage jobseekers and argue that a system of incentives should be put in place to encourage jobseekers to participate in mutual obligation activities (ACOSS, 2002; Cull, 2011; Eardley, 2006; Jones, 2001:14; Mullins & Raper, 1996; Quinlan, 2007; Ziguras; Dufty & Considine, 2003).

Formal inquiries have been commissioned to look at the impact of participation reporting, commonly referred to as 'breaching', because of concerns that this practice has an unduly harsh effect on the most vulnerable people in society. In 2002, an Independent Review of Breaches and Penalties in the Social Security System chaired by Professor Emeritus Dennis Pearce, noted that there were failings in the design and implementation of the system of applying penalties to jobseekers and this created hardship for the unemployed through excessively harsh penalties (Pearce, Disney & Ridout, 2002).

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The jobseeker compliance system has undergone several changes in respect to how sanctions are recommended and applied. The most recent changes are contained in the Social Security Legislation Amendment (Employment Services Reform) Act 2009. An independent review commissioned to examine the new jobseeker compliance framework presented a report to Parliament in 2010. The report noted that enforcing jobseeker compliance should have a key focus of actively engaging jobseekers with 'processes and activities which have a reasonable likelihood of improving their employment prospects' (Disney, Buduls & Grant, 2010:78). Critics of the privatised employment system have argued that jobseekers are required to participate in a rigid schedule of activities and appointments that have little relevance to their real needs (Ziguras, 2004).

The current policy instruction to JSA providers is that they must record any non-attendance of jobseekers to a compulsory appointment, in the department's computer system, ESS. The provider has to consider whether they believe the jobseeker has a valid reason for not attending the interview and record the appropriate notation in ESS as either "Did Not Attend Valid" or "Did Not Attend Invalid".

JSA providers have some leeway in deciding whether or not to submit a Participation Report that could subsequently result in a penalty being applied and loss of income to the jobseeker. They can choose to accept the reasons for non-attendance provided by the jobseeker and/or use their discretion in being lenient toward jobseekers if they feel the jobseeker is vulnerable and may need additional support to meet their obligations. However, several commentators have expressed a view that the attitude of JSA providers to Participation Reporting is closely aligned to the financial or profitability strategies for their organisations. Therefore rather than persevere in their efforts to positively engage jobseekers it is seen as more cost effective to notify Centrelink that the person has failed to attend a compulsory interview. As noted by Fowkes (2011):

> 'It is a lot cheaper and less time consuming to lodge a 'participation report' than it
> is to visit people in their home or to convince them that attendance is valuable'
> (Fowkes, 2011:8).

Bigby and Files (2003:279) state that:

'the role of supporting jobseekers in their efforts to find work may conflict with that of policing their activities and could also be further compromised by the organisation's drive to profitability'.

Considine (2003) notes that NFPs have increased the rate of sanctioning of jobseekers and asserts that the practices of NFPs operating in the employment services field are similar to the approaches adopted by for-profit organisations. In particular, he argues that they select strategies to support jobseekers based on the opportunity to maximise their organisation's financial benefits.

Fowkes (2009:33) notes that the issue of reporting jobseekers to Centrelink presented challenges to the mission and values of NFP organisations and that in the early years of Job Network the purchasing department demonstrated tolerance towards organisations that declared they would not breach jobseekers. However, as the focus on jobseeker's obligations has increased, she asserts that the attitude of providers has shifted and their initial criticism of breaching has subsided. Fowkes argues that the pressure to achieve to achieve job outcomes and at the same time deal with jobseekers who appear hostile or disinterested has resulted in providers accepting that some form of penalty should be applied to jobseekers who do not meet their obligations. Consequently there is greater acceptance amongst NFP organisations of the requirement to submit Participation Reports, and therefore NFPs embrace the practice of 'breaching' (Fowkes, 2009:34).

Theories underpinning the contracting relationship

Smith and Lipsky (1993:98) contend that there are a number of reasons that explain why governments are attracted to the notion of contracting with not-for-profit organisations. Firstly and most importantly for government, is the reduction in the cost of providing the service, often because not-for-profit labour costs are lower than the public sector wages systems or the dynamics of the market may result in costs being paired back so that they can

win contracts. Secondly contracting provides greater flexibility as not-for-profits may be seen to be able to respond and adapt more quickly to changing demands. Thirdly contracting enables government to extend service provision whilst appearing to contain government growth (Smith & Lipsky, 1993:192).

One reason that not-for-profit organisations may tender to deliver government funded services is the alignment between the purposes of government and the mission and values of the not-for-profit organisation (Alford & O'Flynn, 2012:73). However Dolnicar, Irvine & Lazerevski, (2007) assert that the practices adopted by not-for-profit organisations within a competitive environment can detract from their unique attributes and threaten their mission. The establishment of a quasi-market in the employment services sector in Australia has created a competitive environment that sees not-for-profit and for-profit organisations actively competing to win contracts to deliver employment services (Considine, 2001; Eardley, 2003; Ramia & Carney, 2003). While many of the not-for-profit organisations currently contracted as JSA providers, have been involved in providing employment programs for several years, funded through government grant arrangements such as Skillshare (Abello and McDonald, 2002; Considine, 2003), the competitive nature of the quasi-market and the purchaser/provider contracting regime has changed the way in which the various actors in the employment services environment relate to each other (Carson & Kerr, 2010; Considine, 2003; McDonald, 1997; Ramia & Carney, 2003). This can be explained in part by principal agent theory and neo-institutional theory.

Principal agent theory describes the social relationships that occur where two actors exchange resources. The principal contracts with an agent for reasons of cost, efficiency and expertise and the agent provides the required service or resource (Braun & Guston, 2003; Van Slyke, 2007). There are several assumptions underlying principal agent theory. Firstly that goal conflicts or goal divergence can occur where the interests of the principal are not the same as those of the agent. Secondly the parties involved have asymmetric information and often the agent acquires information that is not available to the principal, which they can then to exploit for their own gain (Van Slyke, 2007). Thirdly the agent may be driven by self-interest leading to moral hazard problems or conflicts of interest (Braun & Guston, 2003; Van Slyke, 2007; Waterman, & Meier, 1998). The moral hazard problem is created as a result of the

incentives to perform which may have unintended consequences causing the agent to behave unethically to maximise their performance (Guston, 1996). The principal therefore, uses the instrument of the contract to ensure that the activities of the agent align with the goals of the principal. The contract constrains the agent's choice by including a mix of incentives, sanctions and reporting mechanisms designed to overcome some of the typical problems involved in the principal–agent relationship (Braun & Guston, 2003; Van Slyke, 2007).

Neo-institutional theory asserts that organisations will be influenced by the characteristics of the other organisations operating in the external environment, particularly the powerful elite (DiMaggio & Powell, 1983; Eikenberry & Kluver, 2004; Stone & Sandford, 2009). Neo-institutionalism emphasises how actions are structured in shared institutional environments and focuses on the ways in which powerful agents are able to maintain control through the prevailing systems and rules that become institutionalised (DiMaggio & Powell, 1991). These institutional rules and practices become embedded as the expected norms for all organisations in the field. Di Maggio and Powell (1983) in their seminal work the *Iron Cage Revisited*, note that organisations operating in similar environmental fields experience coercive, normative and mimetic pressures to adopt the institutionally desirable practices. The outcome is institutional isomorphism, which means that organisations begin to resemble each other. Coercive pressures result from organisations needing to conform to government mandates and influences from other powerful organisations, particularly when resource dependencies exist (DiMaggio & Powell, 1983).

The employment services contract, otherwise known as the Deed, exerts coercive pressures on organisations by explicitly defining prescriptive service requirements that limit the scope for flexibility (Finn, 2008; Jobs Australia, 2012; Stromback, 2008; Thomas, 2007). Not only does this create homogeneity within the institutional field, some organisations regard contract prescription as a threat to their mission. For example Catholic Welfare Australia notes, '…our agencies report increasing governmental control over their programs, and decreasing discretion and freedom to implement the kinds of programs that most truly reflect our core mission' (Rogers, 2007). This assessment accords with institutional isomorphism theories that suggest contracting with government will make it difficult for not-for-profit organisations to maintain their distinctive values (Nevile, 2010).

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Method

To explore the impact of the JSA contracting environment on not-for-profit organisations, a case study methodology was selected. The study comprises four not-for-profit organisations that have been delivering federally funded employment services for at least ten years, firstly as part of the Job Network and currently as part of the rebranded employment services, Job Services Australia. The four organisations were selected from a subset of 12 church-related not-for-profit organisations delivering employment services as part of Job Services Australia, on the basis that these church-related organisations operate as part of a religious based organisation that has a specific social mission that is broader than delivering government funded employment services. Each of the organisations is given fictitious names for the purpose of this research. Organisation 1 is referred to as YouthAssets and is a community based organisation delivering a range of welfare services across three states in Australia, predominantly focussing on providing services to disadvantaged young people. Organisation 2 is referred to as ConcernLink and operates in one state in Australia, providing a variety of services aimed at addressing the needs of single people and families. Organisation 3, referred to as GospelWorks delivers employment services in five states across Australia. Organisation 4 is referred to as Faithplus and operates in one state in Australia. The principal data source for this study being semi-structured interviews conducted with personnel from these organisations during the period of 7/10/13 to 20/12/13. The interviews sought to gather data on the impact that the contracting environment has on the mission, values and behaviour of these not-for-profit organisations. Specific attention is given to analysing the power that is exercised by the purchasing department through the mechanism of the Deed.

A total of 42 interviews were conducted. This included interviews with 8 senior managers who occupy either CEO or General Manager positions and who therefore are responsible for the setting the direction and overall management of the services delivered by their organisations. Interviews were also conducted with 34 staff working in frontline positions such as employment consultants, business development consultants or job placement consultants. Pseudonyms are used when referencing a direct quote from an interviewee. Table 1 provides a breakdown of the number of staff interviewed in each of the four not-for-profit organisations.

Table 1: Breakdown of staff interviewed in each organisation

	Frontline staff	Senior Managers	Total
Org. 1- YouthAssets	9	2	11
Org. 2 - ConcernLink	10	2	12
Org. 3 - GospelWorks	7	2	9
Org. 4 - Faithplus	8	2	10
Total	34	8	42

Analysis

The interviews were transcribed and responses to each question analysed using a manual process that involved identifying key themes. The data is structured into six sections. Each section discusses the findings that emerged in response to specific questions relating to the following issues:

1. The relationship between the purchaser and provider;

2. The influence of a tightly prescribed contract in shaping provider behaviour;

3. The effect of red tape and administrative compliance;

4. The impact of government policy in influencing the attitudes of staff;

5. Balancing contract requirements and organisational mission and values;

6. The risk of being perceived as an agent of government;

1. The relationship between the purchaser and provider

Senior managers and frontline staff were asked to relate their perceptions in respect to the relationship between their organisation and the purchasing department. The responses from the majority of those interviewed emphasises their held view that rather than operating within a partnership relationship with government; the messages emanating from the purchasing department constantly reinforce its dominant position and they, as contracted providers feel they are in the subservient role. In fact in describing the relationship between

the purchasing department and service providers, three respondents from two separate organisations used the language of 'master/slave', noting that while the department uses the rhetoric of partnership, they as contracted providers are not in a position to question any of the directives received from the department. The following comment expresses the frustration that is felt when the purchasing department makes changes to procedural guidelines. These changes often involve increased scrutiny by the purchasing department of specific aspects of provider behaviour to address issues arising as a result of the moral hazard problem described earlier:

> 'We're not in a position of bargaining, they keep moving the goal posts, in 4 years they have moved their goal posts so many times' (Mary, frontline staff member, ConcernLink).

Several interviewees emphasised that in their view the purchasing department wields enormous power, particularly in light of provider's concerns that non-compliance with any aspect of the Deed could result in them losing their contract. This sentiment is summed up in the following comment from a frontline staff member:

> 'We have to dot the i's and cross the t's, so everything starts with what the requirement is. The guys that control us [because it's] they could ring up and go, "Could you please go down and shut your door and switch off your server," and say that's it, "and we'll work out the rest in court," or something, however that works. They hold all the cards' (Warwick, frontline staff member, GospelWorks).

Three of the four organisations in this study deliver a range of government funded social services, including homelessness programs, vocational training and education programs and alcohol and other drug rehabilitation services. The senior managers in particular in these organisations have experience in managing various government contracts and dealing with a range of Federal and State government departments. As a consequence, these senior managers are in a position to compare variations in the structure of different contracts and the way the contractual obligations are enforced. Senior managers from each of these three organisations expressed the view that the Employment Services Deed is more prescriptive than other government contracts held by their organisations:

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'The employment services contact would be the most restrictive of the funding contracts that we've got in terms of the micromanagement of what can be claimed and when it can be claimed and what's claimable and arguing with the government about individual transactions that make up the service' (Charles, senior manager, Faithplus).

'Indeed we have other programs that are government funded but they don't have anywhere near the prescription applied to them' (Tina, senior manager, YouthAssets).

2. The influence of a tightly prescribed contract in shaping provider behaviour

To explore the issue of how power and authority is exercised in not-for-profit organisations delivering JSA services, senior managers and frontline staff were firstly asked how they perceive the contracting environment; specifically looking at the extent to which the Deed and the purchasing department influences or dictates the service model.

All of those interviewed asserted that the Deed has a significant influence in dictating the service model. Strong sentiment was expressed in relation to the pervasive nature of the contracting environment with the majority noting that the Deed is very prescriptive and leaves little room for organisations to step beyond the confines of the contract requirements. As expressed by one senior manager:

'The contract is very influential. We follow – you know, it's much prescribed in terms of the steps that you need to go through, and we follow those steps' (Aaron, senior manager, ConcernLink).

As noted earlier, there have been six contracting periods since the commencement of Job Network in 1998 and several of those interviewed have worked within the JN/JSA construct over several contracting periods. These interviewees remarked that they had observed significant change between the way in which the Deed has been administered in some of the earlier contracting periods, when compared to the experience of the 2012-2015 contracting

period. In particular they note that the degree of control exerted by the purchaser has become more pronounced and the services increasingly prescribed. Typical comments include:

> '[The Deed] has certainly become tighter, hate to live in the past but the earlier versions provided a model where you get funded and there was more distinctive service – now every single step along the way is quite controlled and the compliance regime around that and being held accountable' (Dennis, senior manager, Faithplus).

What's more, the increasingly prescriptive nature of the contract is not seen to improve the way services are designed or delivered, as evidenced by the following comment:

> 'Since 2009 the contract is really prescriptive and in some ways destructive, it's a highly structured franchise operation where you are expected to behave in certain ways and you deliver certain services' (Jim, senior manager, YouthAssets).

The key performance indicators (KPIs) articulated in the Deed, also have a significant impact on the way in which JSA organisations operate. JSA organisations deliver services within an intensely competitive environment where failure to perform compared to other providers, may result in a loss of business (Fowkes, 2011:7). The purchasing department, using a system known as the star ratings, measures the comparative performance of all contracted JSA organisations. JSA providers that demonstrate their relative success in achieving outcomes as measured through the star rating system have a greater chance of securing future contracts, whilst low star ratings can put a JSA organisation's business in jeopardy (Fowkes, 2011; JSA, 2009; Productivity Commission, 2002: xxiv). Consequently, the star ratings, which are publically released every six months, influence the behaviour and activities of providers. Achieving high star ratings is a key driver for organisations delivering JSA services, as expressed by a senior manager from GospelWorks:

> '[The Deed] very much dictates the way you go probably go about your business – obviously star ratings are the key factor in terms of your performance, so from that respect it does play a huge role in terms of how we conduct our business' (Gordon, senior manager, GospelWorks).

3. The effect of red tape and administrative compliance

The extensive set of rules and requirements governing JSA providers has become increasingly complex, so much so that all of the organisations in this study have found it necessary to establish their own internal contract compliance and audit units. The primary role of the staff working in these areas is to provide advice to frontline staff on the intricacies of the Deed and to ensure that all activities and transactions comply with contractual obligations. It was noted by senior managers in each of the organisations in this study that this adds a significant staffing cost to the organisation's financial overheads.

To explore the effect of administrative compliance and red tape, senior managers and frontline staff were asked to express their views on the administrative work associated with contract compliance. Over 50 per cent of those interviewed felt that there is a significant amount of unnecessary red tape associated with delivering the contracted employment services and that this detracts from effectively working with individual jobseekers and meeting their needs, as evidenced by the following comment:

> '[I]t's just becoming very admin heavy which is taking away from the focus of our role - which is to help people get to where they want to go' (Chelsea, frontline staff member, YouthAssets).

Staff in each organisation provided examples of the type of information that has to be recorded in the Employment Services System (ESS); the computer system that underpins services provided by JSA organisations, noting that this takes up a significant amount of time. Moreover, several staff referred to what they regard as an inordinate amount of detailed paperwork that must be produced in order to claim certain placement outcomes, this includes obtaining copies of the jobseeker's pay slips signed by the employer.

> '[T]he micromanagement of what can be claimed and when it can be claimed and what's claimable and arguing with the government about individual transactions that make up the service, which means it's very difficult for a local staff member or manager to do anything involving the totality of a person's needs because they're just responding to clauses within a contract' (Charles, senior manager, Faithplus).

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Others saw the administration requirements as unnecessary compliance tests that create burdens for jobseekers as well as JSA providers. This notion expressed by one frontline staff member as follows:

> '[W]e're very much tied up with administration and putting job seekers through hoops and going through hoops ourselves' (Marshall, frontline staff member, GospelWorks).

Several interviewees stated that they believe the focus on administrative compliance has evolved essentially because some organisations within the JSA had behaved in a fraudulent manner and the purchasing department had responded by tightening the rules for all organisations contracted to deliver employment services. There were several comments relating to what they see as the purchasing department's lack of trust of providers:

> 'The biggest issue is there is no trust, the department does not trust its providers, it's not a partnership and it's a difficult one, I understand it from the department's perspective, but they do need to provide greater flexibility' (Bob, frontline staff member, YouthAssets).

> 'Some organisations have done the wrong thing and DEEWR has come down hard which is fair enough but we're all paying the price' (Beth, frontline staff member, Faithplus).

4. The impact of government policy in influencing the attitudes of staff.

The role of JSA organisations in reporting jobseekers to Centrelink by submitting Participation Reports was explored with senior managers and frontline staff interviewed from the four NFP organisations in this study. Specifically to examine the attitude of staff towards so called 'breaching' or actions that result in the loss of payment to jobseekers.

Senior managers and staff were firstly asked if their organisation had developed a specific organisational policy in respect to the jobseeker compliance and secondly how the issue of sending Participation Reports to Centrelink is handled in their respective organisations.

The responses from all those interviewed in each of the four organisations confirmed that no specific organisational 'breaching' policy had been developed and that the decision on whether or not to issue a Participation Report (PR) is left to the discretion of individual staff members. Follow up questions were designed to flesh out how individual staff members approach the process of Participation Reporting and to gauge the attitude of interviewees towards this aspect of contract compliance.

A total of 42 people commented on this issue, this included eleven (11) staff from YouthAssets, twelve (12) staff from ConcernLink, nine (9) staff from GospelWorks and ten (10) staff from Faithplus. The comments made in respect to this issue fell under three different themes. The first and most prominent theme was that submitting PRs is a contractual requirement and although frontline staff have some discretion in deciding if the jobseeker has a valid reason for non-attendance at interviews, it would appear that some staff choose not to exercise this discretion and routinely submit a PR if the jobseeker fails to attend a compulsory interview.

The second theme relates to the practice of being lenient towards jobseekers giving them the benefit of any doubt before submitting a PR. These staff members talked about the need to demonstrate compassion in dealing with disadvantaged people.

The third theme ties in with some of the public discourse around the issue of welfare dependence and the attitude that is sometimes described as 'tough love' (Bessant, 2002; Eardley, Saunders & Evans, 2000; McDonald & Marston, 2005; Wilson & Turnbull, 2001). Those who subscribe to the 'tough love' theory, argue that the PR action is taken to benefit the jobseeker. The responses to the interview discussion relating to Participation Reporting and/or breaching have been tabulated for each of the organisations and the consolidated responses are presented in Table 2.

Table 2: Attitudes to submitting Participation Reports to Centrelink

	YouthAssets	ConcernLink	GospelWorks	Faithplus	Total
Have to do whatever the contract states regardless.	5 (45%)	6 (50%)	7 (78%)	2 (20%)	20 (48%)
Try to be lenient and give the jobseeker the benefit of the doubt.	6 (55%)	4 (33%)	1 (11%)	6 (60%)	17 (40%)
Tough love approach: this is for the jobseekers own good.	0	2 (17%)	1 (11%)	2 (20%)	5 (12%)
Total	11 (100%)	12 (100%)	9 (100%)	10 (100%)	42 (100%)

The majority of those interviewed (48 per cent) simply stated that they submit Participation Reports (PRs) to Centrelink in accordance with the contract and they did not enter into any dialogue about whether they believe this to be a negative or positive action to take. Some of those interviewed stated that the jobseeker knows the rules and therefore if they don't abide by the rules they need to accept the consequences.

Closer analysis of the responses from each of the four organisations in the study reveals some differences in the attitudes and approach taken to the issue of Participation Reporting. The majority of those interviewed from ConcernLink (50 per cent) and GospelWorks (78 per cent) stated that they have to do what the contract states and therefore submit PRs when a jobseeker fails to meet their obligations. Several of those who discussed the contractual obligation to PR, stated that they have no choice as expressed by one staff member:

> 'If you don't want to have a poor minimum contact result you have to put a PR in when they don't attend, so that will take them off, no discretion in that' (Melissa, frontline staff member, GospelWorks).

A significant number of those interviewed from YouthAssets (55 per cent) and Faithplus (60 per cent), stated that they try to take a more lenient approach when considering whether a

PR should be submitted. YouthAssets in particular provides support to disadvantaged young people, who may be experiencing homelessness, substance dependence or have other factors that make it difficult for them to comply with their obligation. A senior manager in YouthAssets discussed concerns about sanctions being applied to jobseekers, in particular the impact that loss of income has in relation to perpetuating the cycle of poverty and disadvantage. She expressed her organisation's approach as one of perseverance and support for jobseekers throughout the service relationship, noting:

> 'I think that staff are mindful of the impact of that type of thing and we put a lot of effort into ensuring every step is taking to connect with people before those actions happen, and then of course if it does happen what do we do to continue to support them' (Tina, senior manager, YouthAssets).

However, comments made by some of those interviewed suggest that these staff members view the attitude and actions of some jobseekers with suspicion. In the words of one staff member:

> 'You need to make sure they are not yanking your chain' (Kerry, frontline staff member, Faithplus).

Moreover, 5 interviewees representing 12 per cent conveyed the sentiment that it is necessary to submit PR's in order to benefit the jobseeker. They stated that they take this action for the jobseekers own good and it is important to exercise this option, as there are some jobseekers that are not motivated to look for employment. These five staff members regard what they are doing as 'tough love' and an important element in the jobseekers pathway to employment, they express their views as follows:

> 'Are you enabling in their life by allowing their bad behaviour to continue- what are you doing for them if you allow them to continue on that way – the answer is your doing nothing - your not helping them at all, sometimes people, and we all do in our lives, need to be held accountable for what we do and that's how you manage that with the contract side' (Emma, frontline staff member, ConcernLink).

'Sometimes you're just doing PR's to get people back on track too' (Porter, frontline staff member, ConcernLink).

'[Breaching] it's in the interest of the jobseeker in moving them along – their best interest – a part of their journey – it is not about a free ride – you get back what you put in – and if you are not willing to participate in a program that we're trying to undertake to work with you to get you a job – there are consequences of your actions, of your decisions' (Steven, senior manager, GospelWorks).

'[Breaching] is encouraged but I feel for the right reasons. I mean I know when I first started I used to think "these poor people how can we put a Participation Report in when they're doing it tough" but then the organisations say "well if they don't turn up to their appointments, how can we help them?" and it's a way of getting them active again and it's tough love' (Beth, frontline staff member, Faithplus).

'So rather than letting her sit there and just say, "You're not participating but I'm just going to let it go," I actually contacted Centrelink and spoke to her Social Worker and said, "This is what's going on. She needs some other help but she's not doing it on her own. We need to do something about it," and the Social Worker and I decided that PR was the best way to go because that would flag to Centrelink, "Hey, this is what—she's not participating but this is the reason why." So I think we look at it more as a holistic approach, like rather than "Let's put the PR in so that we can get them participating and earn some dollars." We look at the things that are far best in the long run' (Ruby, frontline staff member Faithplus).

There is evidence to suggest that the focus on reporting jobseekers that do not comply with their obligations is intensifying in some organisations. Several of those interviewed in

ConcernLink and GospelWorks stated that, whilst they had taken a more lenient approach in the past, they have recently been instructed by their management to increase the level of Participation Reporting. Furthermore, a staff member from ConcernLink advised, that personnel from the Department of Employment, during a recent DoE audit, raised this issue, questioning why her organisation had not reported some jobseekers to Centrelink.

5. The risk of being perceived as an agent of government

In the early days of Job Network, frontline workers had significantly more discretion in providing advice to jobseekers in keeping with the normative practices of case management. However enhancements to the Information Technology system (Employment Services System) that underpins the operations of JSA organisations, has resulted in increased automation and supervisory control of frontline practice, resulting in limited scope for discretion. Moreover, increasingly frontline workers in privatised employment are required to direct job seekers to undertake specific activities in keeping with the state policy. Jobseekers are referred to JSA providers by the state agency Centrelink and while they remain in the system, jobseekers have an ongoing relationship with both Centrelink and the JSA provider they have been assigned to. There is regular liaison between the JSA organisation and Centrelink in relation to a range of issues such as, jobseeker compliance, referral of jobseekers, transferring jobseekers to another location or JSA provider etc. This symbiotic relationship with a government agency coupled with the fact that JSA has evolved as a result of the privatisation in 1998 of the public provider (the Commonwealth Employment Service), has the potential to create in the eye of jobseekers and more broadly the general public, a view that JSA providers are in fact an extension of or an arm of government. If this is the case then presumably this has the potential to create tensions within not-for-profit organisations.

To explore this issue, senior managers in each of the four not-for-profit organisations were asked if they felt that there is a danger that they could be seen as an 'arm of government'.

All of those interviewed expressed the view that there is a conceivable danger that not-for-profit organisations might be regarded as part of the government because of the nature of the work they are doing and the relationship that JSA has with Centrelink.

Senior managers interviewed from YouthAssets agreed that there is the potential to become like an arm of government and stated that the investment they made in their staff professional development and induction training is designed to mitigate this occurring.

Senior managers in ConcernLink were more categorical and stated that jobseekers do regard their organisation as an extension of government, expressing it as follows:

> 'Yes, I don't think there's a danger of it, I think its already happened. We've just gone back to the CES except its not directly owned by the government. That's not necessarily bad or a criticism, that's just a commentary and that therefore means that an organisation like us can't be there' (Paul, senior manager, ConcernLink).

Senior managers in GospelWorks agreed that their organisation is probably seen as an arm of government particularly by jobseekers and potentially also by government themselves, one interviewee responded by saying:

> 'Absolutely, I think government see [our organisation] as an arm of government' (Steven, senior manager, GospelWorks).

Those interviewed in Faithplus, noted that the risk of being perceived as an arm of government is definitely real, however believe that this is mediated in their organisation, because the JSA contract does not dominate in the context of the wide range of services they deliver. This view was expressed as follows:

> 'If we had one large government funding contract then inevitably that would start to shape the organisation's look and feel… there are plenty of organisations in the space where their employment services contract particularly is a huge part of what they do and you see a different dynamic' (Charles, senior manager, Faithplus).

6. Balancing contract requirements and organisational mission and values

A key tension for not-for-profit organisations operating as part of the JSA network is the challenge of maintaining a focus on their organisational mission and values. While the four not-for-profit organisations in this study each have differently expressed mission and values statements, the general principles underpinning these values statements are common to each of the four not-for-profit organisations in this study. These include:

- A commitment to providing support that respects the human dignity and the unique hopes and aspirations of each individual and secondly

- A commitment to persevering with each jobseeker to improve their options.

Senior managers and frontline staff were asked if they felt any tension in trying to manage the contract requirements and at the same time focus on delivering services in accordance with their organisation's mission and values. The majority of those interviewed (85 per cent) stated that they do feel a tension in trying to marry the contract requirements with the principles that underpin their organisational mission and values. Two staff (5 per cent) noted that they do not feel that there are tensions and 4 staff (10 per cent) indicated that they are not really sure about this issue.

Those staff that indicated a perceived tension in trying to manage the contract requirements while remaining focussed on their organisational mission and values refer to the contract prescription, a punitive approach on the part of the purchasing department and a general lack of trust as issues that create particular tensions for them as individuals. A senior manager summed this up as follows:

> 'There are genuine tensions with a model that I believe is very much out of balance, its very, very driven by compliance. It's almost driven by a punitive mindset where the entity who is delivering the service and indeed the client group – are often viewed that- we have to protect them from doing the wrong thing. It doesn't seem to be driven by a model of positive, of trust of recognition of the value of and indeed the experience that the service provider is bringing …. Our organisational values are very important thing to us, we've

gone to a lot of trouble in their development and their articulation into behaviours - and perhaps the things that we would expect and want to provide to jobseekers, don't naturally align themselves to a model that's very, very prescriptive' (Tina, senior manager, YouthAssets).

One staff member suggested that the requirements contained in the Deed has the effect of persistently challenging their organisational mission:

'I think it [the Deed] has a massive impact on how it is we deliver our services, and I certainly believe there is a challenge in terms of our own mission and values being, not necessarily at risk, but being challenged constantly because of the way JSA contract is set up' (Sue, frontline staff member, YouthAssets).

Another frontline staff member commented on what she perceives to be the difficulty of meeting jobseekers needs within a prescribed set of activities and she summarised this as a values conflict:

'It's like putting a square into a circle - creates challenges especially when working with people and trying to fit people into a contract and then into a Christian values system; they are all conflicting' (Narelle, frontline staff member, Faithplus).

A key tension raised by a number of interviewees relates to what they see as a lack of flexibility in being able to provide personally tailored assistance to each jobseeker. They argue that the contract requires jobseekers to undertake specifically prescribed activities that may not be appropriate to their situation. This issue is seen to create conflicts and tensions for staff trying to reconcile the requirements specified in the Deed with their organisational values that emphasise the individual worth and unique needs of each individual jobseeker. This sentiment was expressed as follows:

'It's very conflicting, the deed and what we have to do under deed conflicts with our organisational values because under the deed you have to do this, this, this, bang, bang, bang. Our values say but this isn't what this person needs and so it

argues against each other, it makes it really hard when you are doing an individual plan according to our values but then the deed says this person has to do this, this and this' (Carol, Frontline staff member, YouthAssets).

' [There are] a lot of tensions with the particular requirements as it doesn't allow a lot of flexibility for the clients. If they have, like, particular requirements or personal situations, there's not a lot of flexibility or able to give a lot of, like, leeway if they've got issues and things' (Jenna, frontline staff member, GospelWorks).

Discussion

The outsourcing of government services to private organisations, places public officials in a position of steering rather than rowing (Denhardt & Denhardt, 2000). This analogy is used to illustrate the point that public administrators are no longer involved in the actual delivery of services, rather they are responsible for ensuring government policy is implemented. They do this through the instrument of a funding contract. Osborne and Gaebler (1992) suggest, 'those who steer the boat have far more power over its destination than those who row it'. In the privatised employment services in Australia, there is an obvious asymmetry of power in the relationship between the purchasing department and the JSA service providers, with the purchasing department seemingly holding all the cards and dictating how services are to be delivered by not-for-profit organisations.

Many of the not-for-profit organisations have become resource dependent on the funding derived from their JSA contracts and in this highly competitive environment, organisational survival and legitimacy is related to achieving the outcomes desired by the contractor (Ramia & Carney, 2003).   However, as evident in this study, the contract performance indicators are not necessarily consistent with the best outcome for individual clients and this results in tensions for frontline staff working in mission driven not-for-profit organisations. In this sense, the demands of the contract can create the potential for mission drift in not-for-profit organisations (Alexander, Nank, & Stiffers 1999; Nevile, 2009).

The increasing reliance of not-for-profit organisations on government funding has seen the reach of government extend into the management and internal processes of these organisations (Wolch, 1990:15). The majority of interviewees in this study referred to micromanagement by the purchasing department in scrutinising the routine processes involved in delivering services to jobseekers and employers. They also noted that the purchasing department frequently changes some of the contract conditions, often to counter the sharp or seemingly unethical practices that emerge as JSA organisations seek to optimise their performance. In doing this, the purchasing department's actions are consistent with principal agent theory and the notion that accountability involves the principal having a key role in correcting opportunistic behaviour on the part of the agent (Van Slyke, 2007). In this study, it is evident that the principal or purchasing department wields a big stick in monitoring the behaviour and performance of JSA provider organisations; responding to opportunistic behaviour with increased administrative compliance and red tape.

The way the relationships between the purchasing department and the provider organisations have evolved in the Job Services Australia environment has resulted in an erosion of trust and risks undermining the independence of the not-for-profit sector. As noted by Ramia and Carney (2003), the continuing control exercised by the purchasing department dictates the services to be provided and threatens to divert not-for-profit organisations from their underlying social mission.

Conclusions

This study focussed primarily on the impact of the contracting environment on not-for-profit organisations delivering services within the framework of the Job Services Australia system. The evidence presented confirms that the purchasing department exercises significant power and influence over JSA providers, to the extent that this has created tensions for the not-for-profit organisations involved in this study. In particular frontline staff feel constrained in their ability to deliver personalised services that meet the specific needs of individual jobseekers. Moreover those interviewed believe that the red tape associated with administering the requirements of the Deed has the potential to divert the focus away from providing services to jobseekers as organisations concentrate their efforts on ensuring contract compliance.

The majority of the personnel interviewed from each of the organisations assert that the pervasive nature of the Deed has an adverse effect on the mission of not-for-profit organisation and their ability to deliver services in accordance with their organisational values.

Perhaps more disturbingly, the evidence suggests that in carrying out the contentious government policy of policing the unemployed, not-for-profit organisations face the prospect of being perceived as quasi government organisations (Kramer, 1994).

For not-for-profit and church-related organisations the overarching question is whose mission is being fulfilled under these circumstances?

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