



**Australian Government**



# **Capability Assessment Guidelines**

**V 1.3**

## **Disclaimer**

This document is not a stand-alone document and does not contain the entirety of Disability Employment Services Providers' obligations. It should be read in conjunction with the Disability Employment Services Grant Agreement and any relevant guidelines or reference material issued by the Department of Social Services under or in connection with the Disability Employment Services Grant Agreement.

# Table of Contents

|   |          |
|---|----------|
| <b>Capability Assessment Guidelines</b>                         | <b>1</b> |
| <i>Table of Contents</i>  | 2        |
| Document Change History   | 3        |
| Background  | 3        |
| Disability Employment Services Grant Agreement Clauses:         | 3        |
| Reference documents relevant to these Guidelines:               | 3        |
| Explanatory Note:   | 4        |
| 1. The purpose of a Capability Assessment                       | 5        |
| 2. When a Capability Assessment is triggered                    | 5        |
| 3. Delivery of the Capability Assessment and recording outcomes | 6        |
| 4. Actioning the outcomes of a Capability Assessment            | 6        |
| 5. Summary of Required Documentary Evidence                     | 9        |

## Capability Assessment Guidelines

### Document Change History

| Version | Effective Date | End Date    | Change & Location  |
|---------|----------------|-------------|--|
| 1.3     | 9 Mar 2020     |             | This guideline has been restructured and rewritten for clarity, accuracy, consistency with the DES Grant Agreement and Social Security Law, and comprehensiveness.<br><br>References to the 'Department of Human Services (DHS)' have been updated to 'Services Australia' |
| 1.2     | 1 Jul 2019     | 8 Mar 2020  | Minor wording changes. Addition of Documentary Evidence summary section.   |
| 1.1     | 3 Dec 2018     | 30 Jun 2019 | Updated references to Targeted Compliance Framework Guidelines to new title of Targeted Compliance Framework: Mutual Obligation Failures Guidelines.   |
| 1.0     | 01 Jul 2018    | 2 Dec 2018  | Original version of document   |

### Background

A Capability Assessment is a key component of the Targeted Compliance Framework. It is further protection for the most vulnerable Participants and provides another opportunity for Participants to disclose issues that may be affecting their ability to meet their Mutual Obligation Requirements as set out in their Job Plan.

The Capability Assessment is conducted by Services Australia. It ensures that only those Participants who deliberately fail to meet their participation requirements face potential financial penalties. The purpose of the Capability Assessment is to determine whether a Participant's Job Plan is suitable for the Participant. A Job Plan will be suitable for a Participant if the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them.

### Disability Employment Services Grant Agreement Clauses:

Annexure A - Definitions

Section 5H – Targeted Compliance Framework and activities

### Reference documents relevant to these Guidelines:

Referral for an Employment Services Assessment Guidelines

Capability Interview Guidelines

Targeted Compliance Framework: Mutual Obligation Failures Guidelines

Work Refusal and Unemployment Failures Guidelines

Job Plan and Setting Mutual Obligation Requirements Guidelines

**Explanatory Note:**

All capitalised terms have the same meaning as in Disability Employment Services Grant Agreement. In this document, “must” means that compliance is mandatory and “should” means that compliance represents best practice.

## Capability Interviews Guidelines

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### 1. The purpose of a Capability Assessment

The purpose of the Capability Assessment is to determine whether a Participant's Job Plan is suitable for the Participant. A Job Plan will be suitable for a Participant if the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them.

Even though Providers do not conduct Capability Assessments (they are conducted by Services Australia), Providers still have obligations under the DES Grant Agreement in relation to Capability Assessments. See clause 111.10 of the DES Grant Agreement.

The Capability Assessment will determine the Participant's place in the compliance framework. The Participant will:

- return to the Green Zone with their Demerits reset to zero if the result of the Capability Assessment is that the Participant's Job Plan is not suitable for the Participant; or
- enter the Penalty Zone and incur financial penalties for future non-compliance if the result of the Capability Assessment is that the Participant's Job Plan is suitable for the Participant.

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### 2. When a Capability Assessment is triggered

Participants will only participate in a Capability Assessment once they have already attended a Capability Interview and the outcome of the Capability Interview is that the Participant's Job Plan is suitable for the Participant. See the Capability Interview Guideline for more information on Capability Interviews.

Broadly speaking, Services Australia will conduct a Capability Assessment when the Participant has, in 6 active months (discussed below), incurred five Demerits or a Demerit for a 'fast-track' Mutual Obligation Failure when they already have three Demerits. A fast-track Mutual Obligation Failure is one of the following:

- acting in a manner that could result in an offer of employment not being made to the Participant;
- failing to attend a Job Interview; or
- failing to act on a Job Referral.

The term '6 active months' generally means 182 days, but prolonged for the time the Participant is in a penalty period or has an Exemption (up to a maximum of 12 months).

Note that, if a Participant has three or four Demerits when they incur a Demerit for a fast-track Mutual Obligation Failure, the Department's IT Systems will automatically increase the number of Demerits to five. For more information on when a Participant incurs a Demerit, see the Targeted Compliance Framework: Mutual Obligation Failures Guideline.

When the circumstances described above occur:

- a Capability Assessment is said to be 'triggered'; and
- the Department's IT Systems will identify that the Participant's Reconnection Requirement for their most recent Mutual Obligation Failure is a Capability Assessment. Note the Department's IT Systems refer to Reconnection Requirements as 're-engagement requirements'.

When a Capability Assessment is triggered as described above, the Department's IT System will display the formal notification script that the Provider must then read to the Participant. This notification informs the Participant that:

- they must contact Services Australia as soon as possible to participate in a Capability Assessment; and
- their Income Support Payment will remain suspended until they do so.

Participants will be unable to report to Services Australia for their next fortnightly Income Support Payment until they contact Services Australia to undertake the Capability Assessment.

### **No further Demerits until the Capability Assessment is finalised**

Participants will not be able to accrue any further Demerits until they participate in a Capability Assessment and that Capability Assessment is finalised in the Department's IT Systems.

After triggering the Capability Assessment, Participants might commit further Mutual Obligation Failures after attending a Capability Assessment but before the Capability Assessment has been finalised in the Department's IT System.

In these cases, the Participant will not receive Demerits, but their Income Support Payment will still be suspended to encourage the Participant to reconnect with their Provider.

### **Work Refusal Failure or Unemployment Failure before the Capability Assessment is finalised**

Providers must still comply with their obligations under the DES Grant Agreement relating to Work Refusal Failures and Unemployment Failures, regardless of whether the Capability Assessment is finalised in the Department's IT System. The main obligations are set out in clauses 112 and 112A of the DES Grant Agreement.

For more information, see the Work Refusal and Unemployment Failures Guidelines.

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## **3. Delivery of the Capability Assessment and recording outcomes**

As noted above, Providers' main obligations under the DES Grant Agreement regarding Capability Assessments are set out in clause 111.10 of the DES Grant Agreement.

Services Australia will notify DES Providers of Capability Assessment outcomes via a noticeboard message on the Department's IT Systems. Services Australia will record the outcome of the Capability Assessment and will provide information in the Participant's record on what Mutual Obligation Requirements in their Job Plan are inappropriate and/or the parts of the Job Plan the Provider must renegotiate with the Participant.

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## **4. Actioning the outcomes of a Capability Assessment**

Once Services Australia has finalised the Capability Assessment in the Department's IT System, the Provider must review the outcome and any servicing recommendations Services Australia has recorded in the Capability Management Tool (CMT).

The possible outcomes are as follows:

- the Participant's Job Plan is suitable for the Participant, which is referred to in the Department's IT Systems as 'Deemed capable of meeting their Job Plan requirements'; or

- the Participant’s Job Plan is not suitable for the Participant, which is referred to in the Department’s IT Systems as one of the following, depending on the reason that the Job Plan is not suitable:
  - ‘Errors in the Job Plan–Requires Update’;
  - ‘Not capable of meeting their Job Plan requirements due to their circumstances/capacity’; or
  - ‘Newly disclosed information’.

Each of these outcomes is discussed in further detail below.

### **The Participant’s Job Plan is not suitable**

#### **Outcome: ‘Errors in the Job Plan–Requires Update’**

When the outcome of the Capability Assessment is ‘Errors in the Job Plan–Requires Update’, the Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that there are errors in their Job Plan, which means that the Job Plan is not suitable for the Participant;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan to address the identified errors in accordance with:
  - any recommendations from Services Australia shown in the Department’s IT Systems; and
  - the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

Providers should also be aware that the Participant will not accrue any further demerits until the Participant’s Job Plan has been appropriately updated.

#### **Outcome: ‘Not capable of meeting their Job Plan requirements due to their circumstances/capacity’**

When the outcome of the Capability Assessment is ‘Not capable of meeting their Job Plan requirements due to their circumstances/capacity’, the Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that their personal circumstances have made their current Job Plan not suitable for them;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan so that it is suitable for the Participant in accordance with:
  - any recommendations from Services Australia shown in the Department’s IT Systems and taking into account any reasons Services Australia assessed particular Mutual Obligation Requirements as being inappropriate for the Participant; and
  - the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

Providers should also be aware that the Participant will not accrue any further demerits until the Participant's Job Plan has been appropriately updated.

Outcome: 'Newly disclosed information–newly disclosed personal circumstances'

Services Australia may assess that the Participant would normally be capable of meeting their requirements. However, the Participant has disclosed new information about their personal circumstances that was previously unknown, and these circumstances, had they been known to the Provider at the time of Demerit accrual, may have constituted an Acceptable or Valid Reason. In this case, Services Australia will record the outcome of the Capability Assessment as 'Newly disclosed information–newly disclosed personal circumstances'.

Because the Participant is normally capable of meeting their Mutual Obligation Requirements, their Job Plan does not necessarily require updating. The Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that newly disclosed information would have affected their ability to meet Mutual Obligation Requirements at the time of Demerit accrual;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- consider whether the Job Plan requires updating, and, if so, in consultation with the Participant, update the Job Plan so that it is suitable for the Participant in accordance with:
  - any recommendations from Services Australia shown in the Department's IT Systems; and
  - the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

Outcome: 'Newly disclosed information'–The Participant's stream or program eligibility has changed

If an update to the Participant's Job Seeker Classification Instrument (JSCI) or their finalised Employment Services Assessment (ESAt) moves them to a different employment service, Services Australia will record the outcome of the Capability Assessment as 'Newly disclosed information'. In these circumstances, the Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that that their stream or program eligibility has changed as a result of running the JSCI or as a result of the finalisation of an ESAt;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan to address the identified errors in accordance with:
  - any recommendations from Services Australia shown in the Department's IT Systems; and
  - the Job Plan and Scheduling Mutual Obligation Requirements Guideline.

Providers should also be aware that the Participant will not accrue further demerits until the Participant's Job Plan has been appropriately updated.



## **The outcome of the Capability Assessment is that the Participant's Job Plan is suitable for the Participant**

If Services Australia assesses that the Participant's Job Plan is appropriate for the Participant's individual capacity and personal circumstances, the Participant can be reasonably expected to be capable of meeting their requirements. In this case, Services Australia will record the outcome of the Capability Assessment as 'Deemed capable of meeting their Job Plan requirements'.

This outcome will be recorded when the Capability Assessment has not found any new and/or ongoing personal circumstances that impact the Participant's capacity to comply with their requirements aside from those already recorded in the CMT. The Participant will be confirmed as being in the appropriate servicing stream according to their capability, and the requirements included in their Job Plan are both lawful and appropriate. Therefore, the Job Plan does not require updating. The Provider must ensure the Participant understands that, based on existing evidence, they have been found capable of meeting their Mutual Obligation Requirements and their requirements have been assessed as appropriate.

When the outcome of the Capability Assessment is 'Deemed capable of meeting their Job Plan requirements', the Provider must review the CMT for the Participant. Services Australia may have identified issues that the Provider will need to consider when renegotiating the Participant's Job Plan in the future.

The Provider should, at the next contact with the Participant:

- ensure the Participant understands that they are now in the Penalty Zone, and that the next time they commit a Mutual Obligation Failure, this may result in loss of part or all of their Income Support Payment; and
- ensure the Participant understands the Mutual Obligation Requirements in their Job Plan and the consequences of non-compliance.

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## **5. Summary of Required Documentary Evidence**

In addition to the evidence recorded in the Department's IT system, evidence could include:

- prior notification of the requirement to attend, Job Referral, referral to a Job Interview or notification of an Employment Offer;
- prior notification of details provided to a Participant in relation to attending an Activity or Appointment with a Provider or third party;
- the format of the Notification (i.e. SMS, email or letter);
- fully or partially completed Job Searches provided in hard copy form;
- details of the job/Employer and/or details of the incident, including dates, the parties involved and what occurred.