



Australian Government



Capability Interview 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.

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Capability Interview Guidelines

Document Change History

| Version | Effective Date | End Date | Change & Location |
|---------|----------------|------------------|---|
| 1.3 | 1 January 2023 | | Amendment: Removal of the reference to PaTH Internships as a result of the cessation of the PaTH and National Work Experience programs, effective 9 September 2022. |
| 1.2 | 08 Aug 22 | 31 December 2022 | Noted Capability Interview must be finalised while Participant is present. |
| 1.1 | 9 Mar 20 | 7 Aug 22 | Restructured and rewritten for clarity, accuracy, consistency with the DES Grant Agreement, Social Security Law and comprehensiveness. References to the 'Department of Human Services (DHS)' have been updated to 'Services Australia'. |
| 1.0 | 01 Jul 18 | 8 Mar 20 | Original version of document |

Background

The Capability Interview is a key component of the new Targeted Compliance Framework (TCF). Capability Interviews provide additional protection for vulnerable Participants. The purpose of the Capability Interview 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.

The Capability Interview provides an additional opportunity for Providers to actively engage with their Participants to identify any undisclosed issues and help them to meet their Mutual Obligation Requirements. This includes reviewing the Participant's Mutual Obligation Requirements set out in their Job Plan to ensure they are appropriate for the Participant's level of capability and individual circumstances, as well as giving consideration to services or support that may be appropriate to assist the Participant to meet their Mutual Obligation Requirements and move towards an employment outcome.

Disability Employment Services Grant Agreement Clauses:

Annexure A - Definitions

Section 5 H - Targeted Compliance Framework and activities

Reference documents relevant to these Guidelines:

Referral for an Employment Services Assessment Guidelines

Capability Assessment Guidelines

Work Refusal and Unemployment Failures Guidelines

Targeted Compliance Framework 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.

1. The purpose of a Capability Interview

The purpose of the Capability Interview 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.

The outcome of the Capability Interview will determine whether the Participant continues in the Warning Zone or whether they are returned to the Green Zone with their Demerits reset to zero. The Department's IT Systems will determine the outcome of the Capability Interview based on the information that the Provider records in the Department's IT Systems in relation to the Capability Interview. For more information on what the Provider must record in the Department's IT Systems regarding Capability Interviews, see the sections of this Guideline below headed 'Preparing to conduct a Capability Interview' and 'Conducting the Capability Interview'.

It is intended that the Participant will:

- return to the Green Zone with their Demerits reset to zero if the outcome of the Capability Interview is that their Job Plan is not suitable (i.e. the Mutual Obligation Requirements specified in their Job Plan are not appropriate to the Participant's circumstances or the Participant is not capable of meeting them); or
- continue in the Warning Zone if the outcome of the Capability Interview is that the Job Plan is suitable for the Participant (i.e. the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them).

(Grant Agreement references: clauses 111.7, 111.8 and 111.9).

2. When a Capability Interview is triggered

Providers have an obligation under the DES Grant Agreement to conduct a Capability Interview when the Department's IT Systems specify that the Participant's Reconnection Requirement is a Capability Interview (the timing of when this occurs is discussed below). Note that the Department's IT Systems refer to a Reconnection Requirement as a 're-engagement requirement'.

Broadly speaking, the Department's IT Systems will specify that the Participant's Reconnection Requirement is a Capability Interview when the Participant has, in 6 active months (discussed below), incurred three Demerits or a Demerit for a 'fast-track' Mutual Obligation Failure. A fast-track Mutual Obligation Failure is one of the following:

- acting at a job interview 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.

Note that, if a Participant has less than three 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 three.

A factor that influences whether a Provider must conduct a Capability Interview in the circumstances described above is the outcome of any Capability Interview or Capability Assessment that has been conducted in relation to the Participant in the last 60 days. Subject to certain requirements, if the

outcome is that the Participant's Job Plan is suitable, then a further Capability Interview is not required.

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).

When the Department's IT Systems specify that the Participant's Reconnection Requirement is a Capability Interview:

- a Capability Interview is said to be 'triggered'; and
- the Department's IT Systems will identify that the Capability Interview is 'outstanding'.

The Department's IT Systems will identify that a Capability Interview is 'outstanding' until it is finalised. The Capability Interview will be finalised when the Provider selects 'submit' in the Department's IT Systems after completing the pre-interview check and recording all the relevant information during the Capability Interview (as discussed in this Guideline below in the sections headed 'Preparing to conduct a Capability Interview' and 'Conducting the Capability Interview').

When a Participant incurs a Demerit that triggers a Capability Interview, their Income Support Payment will be suspended until the Participant participates in the Capability Interview and the Capability Interview is finalised. Exceptions to this are discussed below under the heading 'Circumstances where a Capability Interview cannot be delivered within two Business Days'.

Where the Department's IT Systems identify that a Capability Interview is 'outstanding' (as referred to above), the Participant will not be able to accrue any further Demerits until they attend a Capability Interview and that Capability Interview is finalised.

(Grant Agreement reference: clause 111.7)

Capability Interviews resulted as 'No Longer Required', but are still 'outstanding'

In some circumstances, where the Department's IT Systems identify that a Capability Interview is 'outstanding', the Capability Interview will be shown to be 'No Longer Required'. This will happen where, after the Capability Interview is triggered, but before it is finalised, the Participant:

- transfers from the Provider to another Provider, but remains in DES; or
- is granted an Exemption.

Even though the Capability Interview is shown as 'No longer Required', there is still an obligation to conduct the Capability Interview as follows:

- when the Participant transfers to a new Provider, the new Provider must conduct the Capability Interview; and
- when the Participant returns to servicing after an Exemption, the Provider must conduct the Capability Interview.

In these cases, the Participant must participate in a Capability Interview before their new Job Plan can be negotiated with them. The Department's IT Systems will continue to identify that the Capability Interview is 'outstanding' until the Capability Interview is finalised.

The timeframe within which the 'No longer Required' Capability Interview must be conducted is discussed below under the heading 'When the Participant is transferred to another Provider or they are returning to service after an Exemption'.

3. Scheduling a Capability Interview

As discussed above, the Department's IT Systems will identify when a Participant's Reconnection Requirement is a Capability Interview. Providers' main obligations regarding when they must schedule a date and time for a Reconnection Requirement (e.g. a Capability Interview) are set out in clauses 111.2(a)(ii) and 111.4(b) of the DES Grant Agreement.

When scheduling a Capability Interview in the Participant's Electronic Calendar, the Provider must be in direct contact with the Participant. This is to ensure that the Participant receives formal notification of the Capability Interview within a reasonable timeframe.

Usually, when a Provider is scheduling the Capability Interview, the Provider must schedule it to occur within two Business Days after the Participant incurs the relevant demerit, as specified in clause 111.9(b) of the DES Grant Agreement. This usual timeframe is referred to in this Guideline as the 'standard two Business Days timeframe'. Exceptions to the standard two Business Days timeframe are discussed below under the heading 'Circumstances where a Capability Interview cannot be delivered within two Business Days'.

Providers should ensure that the scheduled Capability Interview is of sufficient length to allow for a thorough review of the Participant's personal circumstances and a detailed discussion. The recommended time for a Capability Interview is between 30 and 60 minutes.

When scheduling the Capability Interview, the Provider must ensure the Participant understands:

- the purpose of the Capability Interview;
- the reason they must participate in a Capability Interview (either because they accrued three Demerits or because they committed a fast-track Mutual Obligation Failure); and
- the serious potential consequences of continued Mutual Obligation Failures.

(Grant Agreement reference: clauses 111.2(a)(ii) and 111.4(b))

4. Circumstances where a Capability Interview does not need to be delivered face to face

Providers must conduct Capability Interviews face to face, except in allowable circumstances.

(Grant Agreement reference: clauses 111.9)

Allowable Circumstances

Allowable Circumstances are limited to circumstances that:

- are beyond the Participant or Provider's control; and
- prevent the Capability Interview from being delivered face to face,

including where any one or more of the following apply to the Participant:

- they reside in an area that is affected by:
 - extreme weather conditions;
 - a natural disaster; and/or
 - public transport strikes;
- they are participating in full-time Education (including training), and this participation restricts their availability to attend the Capability Interview face to face;

- they are Employed and their hours restrict their availability to attend the Capability Interview face to face; and/or
- they are not medically fit to attend the Capability Interview face to face.

If Allowable Circumstances prevent the Capability Interview from being delivered face to face, the Provider may conduct the Capability Interview via telephone or videoconference so that it is delivered within the standard two Business Days timeframe.

When scheduling the Capability Interview to be delivered via phone or videoconference, the Provider must record the Allowable Circumstance in the Department's IT Systems.

5. Circumstances where a Capability Interview does not need to be delivered within two Business Days

If the Participant has an Acceptable Reason

A Participant may notify the Provider, before the end of the standard two Business Days timeframe, that the Participant is unable to attend the Capability Interview within that timeframe. Providers must then assess whether the Participant's reason for not being able to attend the Capability Interview within that timeframe is an Acceptable Reason.

For the purposes of the above, the Provider must determine that a Participant has an Acceptable Reason for being unable to attend the Capability Interview within the standard two Business Days timeframe if:

- the Participant notified the Provider, before the end of the standard two Business Days timeframe, that the Participant is unable to attend the Capability Interview; and
- the Provider is satisfied that the Participant has a Valid Reason for being unable to attend the Capability Interview within the standard two Business Days timeframe.

A Provider must determine that the Participant has a Valid Reason if, and only if, they are satisfied that the reason the Participant provides:

- would directly prevent the Participant from attending the Capability Interview within the standard two Business Days timeframe;
- would be considered to be reasonable by a member of the general public; and
- aligns with the Participant's personal circumstances as known by the Provider.

If the Provider determines that a Participant has an Acceptable Reason for being unable to attend the Capability Interview within the standard two Business Days timeframe as discussed above, the Provider must schedule the Capability Interview to occur within 12 Business Days after the standard two Business Days timeframe. Broadly speaking, this means that the Provider must schedule the Capability Interview within 14 Business Days after the Participant incurs the Demerit that triggers the Capability Interview.

In this case, Providers must select 'unable to re-engage within two Business Days' in the Department's IT Systems. The Department's IT Systems will then prompt the Provider to schedule the Capability Interview within that 14 Business Day timeframe. This will lift the Participant's payment suspension, but the requirement to attend the Capability Interview will still be outstanding on the Participant's record.

If the Provider selects 'unable to re-engage within two Business Days' in the Department's IT Systems as referred to above, the Provider must also select a description of the relevant Valid Reason from the drop-down menu that will appear. In selecting a reason option from the drop-down menu, the Provider must select the option that is most similar to the Participant's Valid Reason as

they described it to the Provider. The Provider must not use the options in the drop-down menu to prompt or elicit responses from the Participant. A full list of the reasons that appear in the drop-down menu can be found at Attachment A.

If the Participant does not have an Acceptable Reason

If the Provider assesses that the Participant's reason is not an Acceptable Reason as discussed above, the Provider must schedule the Capability Interview within the standard two Business Days timeframe. The Provider must then tell the Participant why their reason is not an Acceptable Reason, inform them that they are still expected to attend the Capability Interview and remind them that their Income Support Payment suspension will not be lifted until they do so.

When part-time or outreach services prevent delivery of the Capability Interview within two Business Days

If:

- the Provider determines that the Capability Interview must be conducted face to face (e.g. because it is unsuitable to deliver the Capability Interview via telephone or videoconference); but
- part-time or outreach services prevent the Provider from delivering the Capability Interview face to face within the standard two Business Days timeframe,

the Provider must schedule the Capability Interview to occur as soon as possible after the standard two Business Days timeframe. In any event, the Provider must schedule the Capability interview to occur within 12 Business Days after the standard two Business Days timeframe. Broadly speaking, this means that the Provider must schedule the Capability Interview within 14 Business Days after the Participant incurs the Demerit that triggers the Capability Interview.

In these cases, Providers must select 're-engagement not required' in the Department's IT Systems. This will lift the Participant's Income Support Payment suspension, but the requirement to attend the Capability Interview will still be outstanding on the Participant's record.

The Provider must record the reason that re-engagement is not required in the Department's IT Systems. The only drop-down menu option is 'Part-time/outreach services'.

The Provider must then manually schedule the Capability Interview in the Participant's Electronic Calendar.

When the Participant is transferred to another Provider or they are returning to service after an Exemption

A Provider does not need to conduct the Capability Interview within the standard two Business Days timeframe where, after the Capability Interview is triggered, but before it is finalised, the Participant:

- transfers from the Provider to another Provider, but remains in DES; or
- is granted an Exemption.

When the Participant transfers to a new Provider, the new Provider must conduct the Capability Interview at the Participant's Initial Interview.

When the Participant returns to servicing after an Exemption, the Provider must conduct the Capability Interview within 14 Business Days after the Participant returns.

Reporting a Work Refusal Failure and Unemployment Failure before the Capability Interview is finalised

Providers must still create Work Refusal Failure reports and Unemployment Failure reports in accordance with their obligations under the DES Grant Agreement, regardless of whether the Participant has an outstanding Capability Interview in the Department's IT Systems.

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

If a Participant fails to attend their Capability Interview

As noted above, a Capability Interview is a type of Reconnection Requirement. See the Targeted Compliance Framework: Mutual Obligation Failures Guideline for more information on the steps Providers must take when a Participant fails to meet a Reconnection Requirement.

6. Preparing to conduct a Capability Interview

Prior to the Capability Interview, the Provider must complete a pre-interview check in the Department's IT Systems. The Provider must prepare for completing the pre-interview check by reviewing the following:

- the Participant's current Job Seeker Classification Instrument (JSCI)—to familiarise themselves with the Participant's personal circumstances;
- the Capability Management Tool (CMT)—for information on barriers that may be affecting the Participant's ability to meet their Mutual Obligation Requirements;
- the Job Seeker Personal Summary—to familiarise themselves with the Participant's basic information history and current circumstances;
- the Participant's current Job Plan—to determine whether the Participant's Mutual Obligation Requirements:
 - are up to date and appropriate based on the Participant's personal circumstances;
 - include an appropriate level of Job Search;
 - do not conflict with each other; and
 - do not add up to excessive hours.

In determining these things, the Provider must consider the relevant requirements in the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

The Provider must be well prepared and have all relevant information to hand both prior to conducting the Capability Interview and during the Capability Interview itself.

Pre-interview check

As noted above, the Provider must conduct the Capability Interview pre-interview check prior to the Capability Interview. The Provider can access the pre-interview check in the Department's IT Systems by selecting the relevant Capability Interview listed on the Targeted Compliance Framework/History screen.

The pre-interview check is composed of a set of questions aimed at determining whether the Participant's Job Plan is suitable (i.e. the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them).

The questions in the pre-interview check focus only on the Mutual Obligation Requirements in the Participant's Job Plan. Providers must not consider voluntary requirements as part of this check.

The Provider must answer the pre-interview check questions accurately.

When answering the pre-interview check questions, Providers must only use the information that had been recorded in the Department's IT Systems at the time the Job Plan was negotiated. Providers must not use information that has been recorded since.

For more information regarding the pre-interview check, see Attachment B.

7. Conducting the Capability Interview

Delivery by a different staff member

While it is not a requirement, it is strongly recommended that the staff member who delivers the Capability Interview is someone other than the staff member who negotiated the Participant's last Job Plan. This is because the Participant may disclose new information to another staff member that they had not disclosed to their usual consultant.

Site resourcing may restrict this practice—some Provider sites may have very limited staffing. In this situation, it is permissible for the same staff member who negotiated the last Job Plan to also conduct the Capability Interview.

Getting Started

The Provider must first advise the Participant that the Capability Interview is being undertaken due to their Mutual Obligation Failure(s). The Provider must explain the purpose and potential outcomes of the Capability Interview, including:

- that the Participant's Job Plan may require re-negotiating;
- that the Participant will either return to the Green Zone or continue in the Warning Zone, depending on the outcome of the Capability Interview; and
- the financial consequences for the Participant if they continue to commit Mutual Obligation Failures.

The focus of the Capability Interview is to:

- ensure the Participant understands their Mutual Obligation Requirements and the consequences of not meeting them;
- ensure the Participant's Mutual Obligation Requirements set out in their Job Plan are appropriate for their circumstances; and
- identify any undisclosed barriers preventing the Participant from meeting their Mutual Obligation Requirements.

The Provider must ensure the Participant understands that their Provider is seeking to better understand the reasons why they have not been meeting their Mutual Obligation Requirements.

Providers must advise Participants that:

- it is important they disclose any personal circumstances that may be affecting their ability to comply with their Mutual Obligation Requirements (so the Provider can set Mutual Obligation Requirements appropriately);
- if needed, the Participant will be provided with assistance to help them meet their Mutual Obligation Requirements, or their Mutual Obligation Requirements may be adjusted;
- the Participant may require and receive different services as a result of the Capability Interview;

- they may be referred to the Services Australia for a new Employment Services Assessment (ESAt); and
- if they continue to commit Mutual Obligation Failures without a Valid Reason, this will result in increasingly serious consequences, including potential loss of their Income Support Payment.

The Provider must ask the Participant if they have any concerns or questions before starting the Capability Interview, and they should address these where possible.

Capability Interview discussion

During the Capability Interview, the Provider must discuss the following with the Participant:

- the Participant's understanding of their Mutual Obligation Requirements and what they must do to meet them. This may require a detailed discussion to ascertain the Participant's level of understanding of what they must do to avoid Demerits and Income Support Payment suspension, reduction and/or cancellation;
- the reasons behind the Participant's recent Mutual Obligation Failure(s) and any factors that may be affecting the Participant's capacity to meet their Mutual Obligation Requirements;
- whether alternative Mutual Obligation Requirements may be more appropriate for the Participant;
- any undisclosed barriers that might be preventing the Participant from meeting their Mutual Obligation Requirements;
- any support or assistance the Participant identifies that might better help them meet their Mutual Obligation Requirements;
- if applicable, the quality of their Job Search efforts;
- if applicable, what the Participant will do to increase their chances of finding Employment;
- if applicable, the Participant's attempts to find and keep suitable Employment, including their long-term employment goals; and
- anything else of relevance to the Participant's capability to meet their Mutual Obligation Requirements.

Providers should note that the Capability Interview is not an opportunity to review the circumstances under which each Demerit was accrued or to review the decision-making process for each Demerit decision.

During Capability Interview discussion with the Participant, the Provider must accurately answer all the Capability Interview questions that can be accessed on the Targeted Compliance Framework/History screen in the Department's IT Systems. The Provider must also accurately record additional information relating to those questions where they are prompted to do so by the Department's IT Systems.

Re-running the Job Seeker Classification Instrument (JSCI)

During each Capability Interview, the Provider must:

- review the Participant's JSCI assessment; and
- if the JSCI does not accurately reflect the current circumstances of the Participant as disclosed during the Capability Interview, update the Participant's JSCI.

See the DES Job Seeker Classification Instrument Guidelines for more information on how to conduct/update a JSCI.

Referring the Participant for an Employment Services Assessment after re-running the JSCI

An Employment Services Assessment (ESAt) determines whether a Participant should receive services in the DES Disability Management Service or DES Employment Support Service or other programs such as Workforce Australia.

After the Provider conducts the JSCI, the Department's IT Systems may show that the result of the JSCI is a referral to Services Australia for an ESAt. Alternatively, the Provider should refer Participants who they consider may need an ESAt to Services Australia. Providers must comply with the DES Referral for an Employment Services Assessment Guidelines on the Provider Portal when referring Participants to Services Australia for an ESAt.

Services Australia will notify the Provider of the outcome of the ESAt via a Noticeboard message in the Department's IT Systems, and they will upload any newly disclosed vulnerabilities and barriers into the CMT for the Provider to action.

Where the JSCI results in an ESAt being required and a referral to Services Australia is made within the Capability Interview, the Capability Interview will be finalised once the ESAt appointment is booked. The outcome of the Capability Interview will be 'newly disclosed information' (meaning the Participant's Job Plan is not suitable), and the Participant will return to the Green Zone with their Demerits reset to zero.

While awaiting the outcome of an ESAt, Participants are still required to meet their Mutual Obligation Requirements, but they cannot accrue further Demerits for Mutual Obligation Failures.

Finalising the Capability Interview

The Provider must finalise the Capability Interview in the Department's IT Systems while the Participant is still in attendance at the Capability Interview appointment, or while the Participant is still in contact where the Capability Interview was delivered via phone or videoconference.

If the Participant attended the Capability Interview appointment but did not participate for the duration of the appointment, Providers must complete the Capability Interview based on what they know about the Participant, and finalise the Capability Interview in the Department's IT Systems the same day.

Using the Capability Management Tool

Providers have an obligation to use the Capability Management Tool (CMT) during the Capability Interview. Providers can access the CMT in the Department's IT Systems. The CMT is used to record, review and manage information on Participant's personal circumstances that may be affecting their capacity to meet their Mutual Obligation Requirements. The CMT consolidates information collected from the Capability Interview discussion, the most recent JSCI and any past ESAts or Capability Assessments.

Based on the discussion with the Participant during the Capability Interview, Providers must use the CMT to accurately record information regarding all identified barriers or vulnerabilities affecting the Participant's ability to meet their Mutual Obligation Requirements.

(Grant Agreement reference: clauses 111.8)

8. Actioning outcomes from a Capability Interview

As noted above, the Department's IT Systems will determine the outcome of the Capability Interview based on the information that the Provider records in the Department's IT Systems in relation to the Capability Interview. 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.

Once the Department’s IT Systems have determined the outcome of the Capability Interview, the Provider must explain this outcome to the Participant and ensure they understand what it means and what will happen next.

The Participant’s Job Plan is not suitable

If the outcome of the Capability Interview is that the Participant’s Job Plan is not suitable for the Participant:

- the Participant is returned to the Green Zone with their Demerits reset to zero; and
- the Provider must negotiate and update the Job Plan so that it is suitable for the Participant in accordance with the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines, except in the circumstances described below under the heading ‘Outcome: ‘Newly disclosed information’’. Providers are strongly encouraged to negotiate and update the Job Plan as part of the Capability Interview once the outcome has been determined by the Department’s IT Systems. If it is not updated as part of the Capability Interview, the Provider must negotiate and update the Job Plan within the 10 Business Days following the finalisation of the Capability Interview.

Until the Job Plan is updated and agreed by the Participant, they cannot accrue further Demerits.

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

If the Provider records in the Department’s IT Systems that the Job Plan has errors during the Capability Interview, the outcome of the Capability Interview will be that the Participant’s Job Plan is not suitable for the Participant. A Job Plan contains errors if it includes items that are inappropriate for the Participant.

Provider action

- 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.
- In consultation with the Participant, update the Job Plan to address the identified errors in accordance with the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

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

If the Provider records in the Department’s IT Systems that the Participant’s personal circumstances prevent them from successfully meeting the Mutual Obligation Requirements set out in their Job

Plan during the Capability Interview, the outcome of the Capability Interview will be that the Participant's Job Plan is not suitable for the Participant.

For example: a parent with caring responsibilities may not be the principal carer, but may not have the capacity to attend requirements outside of school hours on certain days

Provider action

- 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.
- In consultation with the Participant, update the Job Plan so that it is suitable in accordance with the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

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

The Provider may assess that the Participant would normally be capable of meeting their Mutual Obligation Requirements. However, the Participant has disclosed new information about their personal circumstances that was previously unknown to the Provider, and these circumstances would have affected the Participant's ability to meet their Mutual Obligation Requirements at the time they accrued Demerits.

Circumstances are considered to be newly disclosed if they are not already recorded in the Department's IT Systems.

For example: the Participant has disclosed that they are homeless or a victim of family violence.

This is not a review of whether the Participant should have accrued Demerits in relation to the relevant Mutual Obligation Failures—instead, the newly disclosed information informs the assessment of the Participant's overall capability at the time they accrued Demerits.

Because the Participant is normally capable of meeting their Mutual Obligation Requirements, their Job Plan does not necessarily require updating.

Provider action

- 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.
- Consider whether the Job Plan requires updating. If so, negotiate and update the Job Plan so that it is suitable in accordance with the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

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

If a Participant is placed into another service as a result of the finalisation of an ESAt, the outcome of the Capability Interview will be that the Participant's Job Plan is not suitable for the Participant.

Provider action

- Advise the Participant that their program eligibility has changed 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.
- In consultation with the Participant, update the Job Plan so that it is suitable in accordance with the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

The Participant's Job Plan is suitable for the Participant

If the outcome of the Capability Interview is that the Participant's Job Plan is suitable for the Participant, they will continue in the Warning Zone with three Demerits once the Capability Interview is finalised.

Because the Job Plan is suitable for the Participant, it does not need to be updated.

Provider action

- Advise the Participant that their Job Plan has been assessed as being suitable for them.
- Advise the Participant that the next time they commit a Mutual Obligation Failure without Valid Reason, this may result in a Capability Assessment with Services Australia.
- Ensure the Participant understands the Mutual Obligation Requirements in their Job Plan and the consequences of non-compliance.

Ramifications of further non-compliance

See the Targeted Compliance Framework: Mutual Obligation Failures Guidelines (under the heading 'The Penalty Zone') for more information on the consequences for the Participant if they continue to accrue Demerits after they remain in the Warning Zone following a Capability Interview.

Summary of required Documentary Evidence

In addition to the evidence recorded in the Department's IT Systems, evidence supporting the outcome of the Capability Interview 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;
- a record of a discussion with a Participant where it has been recorded in the 'Comments' screen in the Department's IT system;
- details of the job/employer and/or details of the incident, including dates, the parties involved and what occurred; or
- details of the incident, including dates, the parties involved and what occurred

Attachment A – ‘Unable to Re-engage Within 2 Business Days’ reason options

‘Unable to Re-engage within 2 Business Days’

- Caring/family duties that were unexpected impacts attendance
 - Cultural business over next two business days impacts attendance
 - Full-Time Activity/Training impacts attendance
 - Housing instability/emergency impacts attendance
 - Legal requirements impact attendance
 - Local issue/natural disaster impacts attendance
 - Major personal crisis affecting job seeker impacts attendance
 - Medical/health issue over next two days impacts attendance
 - Travel/transport–exceptional issue impacts attendance
 - Working over next two business days
-

Attachment B—Pre-interview check questions

NOTE: When assessing whether the activity hours and types of activities in a Participant’s Job Plan are appropriate, Providers must follow the DES Job Plan and Scheduling Mutual Obligation Requirements Guidelines.

Pre-Interview Job Plan Check questions

How many hours of activity participation per fortnight have been set?

This is the total hours recorded for compulsory activities. The codes in the Participant’s Job Plan may indicate the hours per week/fortnight, or the hours may be outlined in the Free Text Job Plan code.

Are the number of activity hours appropriate and in line with the Participant’s requirement level?

Refer to the Activity Requirements table beneath these questions. This shows the number of hours of compulsory activity participation considered above Participant expectations based on the Participant’s age and level of requirements.

Are the Participant’s activities appropriate based on their personal circumstances?

Select all that apply.

The Participant has been set requirements that are appropriate for their personal circumstances and capacity.

For example:

- A Participant with low literacy/numeracy is not asked to complete training or education that is well beyond their capacity.
 - A Participant with chronic back pain is not asked to attend an activity that requires them to stand all day.
-

The Participant’s requirements are scheduled at an appropriate time as per their calendar.

For example:

- A Principal Carer Parent is not asked to attend requirements outside of school hours when they have not indicated that either this is appropriate for them or that they have childcare arrangements in place.
-

The Participant is reasonably able to get there (the Participant has transport available).

For example:

- A Participant who does not have a car is not asked to attend a requirement where there is infrequent or non-existent public transport.
-

Are there any requirements in the Job Plan that have an end date in the past (expired) or that are no longer appropriate?

For example:

- None of the codes in a Participant’s Job Plan have end dates that have lapsed.
 - Requirements that are no longer appropriate are removed—such as self-employment for a Participant who is no longer self-employed.
-

Pre-Interview Job Plan Check questions

Is the number of Job Search efforts appropriate to the individual?

Select all that apply.

-
- Appropriate based on stream/program**
-
- Appropriate based on local labour market**
-
- Appropriate based on personal circumstances/barriers of Participant**
-

This includes reviewing the number of Job Search efforts required and the overall validity of the requirement for the Participant. This looks at the Participant's local labour market, stream/program, and personal circumstances. It also looks at other Mutual Obligation Requirements a Participant is meeting which may reduce their required efforts.

For example:

- A Participant who lives in a remote seasonal or tourist area—i.e. an area with a weak labour market—is not required to apply for a number of jobs that significantly exceeds local labour market thresholds.
 - A Participant whose literacy levels are low is required to submit an appropriate number of Job Search efforts while they are receiving other supports to increase their literacy levels.
-

Activity requirement hours

The following table can be used as reference when reviewing the Job Plan.

| Total compulsory activity participation hours should not exceed... | | |
|---|------------------------|------------------------|
| Age group | Full-time requirements | Part-time requirements |
| Under 30 | 75hr | 61hr |
| 30–49 | 75hr | 61hr |
| 50–59 | 61hr | 51hr |
| 60 and over | 41hr | 41hr |
