



**Australian Government**



# **DES Fraud Control Plan Guidelines**

**V 1.0**

**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.

## Document Change History

Version	Effective Date	End Date	Change & Location
1.0	01 Jul 2020		Original version of document

## Background

These Guidelines provide information about a Provider's responsibilities and the department's expectations of 'appropriate fraud control plan' under clause 28.2 of the DES Grant Agreement (the Grant Agreement).

### Disability Employment Services Grant Agreement Clauses:

Clause 15 – Provider's conduct

Clause 18.1(c) – Liaison and compliance

Clause 28 – Fraud

Clause 100 – Safety and Supervision

'**Customer**' includes a Participant, potential Participant, Employer and any other user of the Services.

'**Employer**' means an entity that has the legal capacity to enter into a contract of employment with a Participant.

'**Participant**' means a Disability Employment Services – Disability Management Service Participant or a Disability Employment Services – Employment Support Service Participant, as the context requires.

### Reference documents relevant to these Guidelines:

Commonwealth Fraud Control Framework as established by the Attorney General's department under the *Public Governance, Performance and Accountability Act 2013*.

*Criminal Code Act 1995 (Cth)*

Fraud against the Commonwealth is defined as *dishonestly obtaining a benefit, or causing a loss, by deception or other means*. This definition is based on the dishonesty offences under chapter 7 of the Criminal Code and restated in Part 3 of the Commonwealth Fraud Control Framework.

### 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. References to 'the Department' in these Guidelines refer to the Department of Social Services.

## 1. Fraud Control Plans

### Overview

Fraud against the Commonwealth is a criminal offence that impacts directly on Australians. While reducing the funds available for public goods and services, there is a risk that fraud relating to the DES program could undermine public confidence in the Government, and/or Government's confidence in the program.

Incidents of fraud damage the reputation of the Provider and/or the Department, or how the Services are perceived publicly, should it become publicly known.

Fraud against the Commonwealth includes (but is not limited to):

- Theft
- Accounting fraud (e.g. false invoices, misappropriation of funds and assets)
- Providing false or misleading information to the Commonwealth, or intentionally failing to provide information when there is an obligation to do so
- Cartel conduct
- Creating or/using fraudulent documents
- Misuse of Commonwealth information or intellectual property
- Unauthorised access and/or disclosure of information and
- Misuse of power or position.

The Commonwealth Fraud Control Framework defines fraud as 'dishonestly obtaining a benefit, or causing a loss, by deception or other means' where:

- Dishonesty refers to the intent of the person at the time of the act and whether a normal, reasonable person, would judge that to be dishonest.
- A benefit or loss can be real or intangible. The benefit may be for the person perpetrating the fraud or for the benefit of another.
- Deception must be deliberate or reckless and be misleading

Fraud requires intent. It requires more than carelessness, accident or error. When intent cannot be shown, an incident may be non-compliance rather than fraud.

The DES program manages fraud at three levels: Program, Provider, and Incident.

### Provider responsibilities

Providers, Provider personnel and sub-contractors are Commonwealth public officials for the purposes of section 142.2 of the *Criminal Code Act 1995* (Cth). In addition to the compliance and conduct requirements under the Grant Agreement, Providers must be aware of accountability in relation to the relevant offences under the *Criminal Code Act*, including but not limited to:

- Section 139.2 – Unwarranted demands made by a Commonwealth public official;
- Section 141.1 (3) – Bribery of a Commonwealth public official;
- Section 142.1 (3) – Corrupting benefits given to, or received by, a Commonwealth public official;
- Section 142.2 (1) – Abuse of public office; and
- Section 148.2 – impersonation of an official by another official.

Providers are required to take all reasonable steps to prevent fraud against the Commonwealth, including the implementation of an appropriate fraud control plan (clause 28.2 of the Grant Agreement refers).

Providers are required to report incidents of suspected and potential fraud against the Commonwealth as soon as possible to the DSS Fraud Hotline on 1800 133 611, or email [fraud@dss.gov.au](mailto:fraud@dss.gov.au). Early identification and reporting will allow the Provider and the Department to work together to minimise impact.

Incidents identified and referred by Providers will be managed in accordance with the Grant Agreement.

This Guideline sets out the Department's expectation of an *appropriate fraud control plan* and reporting of fraud incidents.

### **Establishing an Appropriate Fraud Control Plan**

Within one month of this Guideline coming into effect, Providers must update their Fraud Control Plan to be consistent with the Commonwealth Fraud Control Framework 2017 and otherwise meet the requirements of this Guideline.

### **Requirements of an Appropriate Fraud Control Plan**

The Provider's Fraud Control Plan must:

- Cover the entire Grant Agreement, including any part of the Grant Agreement being performed by any Provider personnel, Customers, Employers, Participants, subcontractor or other person or under any other arrangement established by the Provider relating to the Grant Agreement; and
- Contain appropriate fraud prevention, detection, investigation, reporting and audit processes and procedures.

At a minimum, the Fraud Control Plan must:

- Include a summary of fraud risks and vulnerabilities associated with the Grant Agreement including those posed by Provider personnel, Customers, Employers, Participants, subcontractors or other person or under any other arrangement established by the Provider;
- Propose treatment strategies and controls to manage each identified fraud risk and vulnerability;
- Provide information about how the Fraud Control Plan has been, or will be, implemented by the Provider;
- Propose strategies to ensure the Provider meets its obligations set out in the Fraud Control Plan;
- Include mechanisms and timeframes for collecting, analysing and reporting fraud incidents to the Department;
- Provide details of how the Provider will ensure the Fraud Control Plan is working and remains in place for the duration of the Grant Agreement including frequency of reviews as specified in these Guidelines;
- Include protocols for detecting, handling and reporting suspected fraud incidents;
- Include mechanisms on how the Provider will ensure that its officers, employees, agents and/or subcontractors, Customers, Employers and Participants are made aware of what constitutes fraud, fraud risks and arrangements for handling fraud incidents relating to the Grant Agreement; and outline key roles and responsibilities for fraud control within the Provider's organisation.

### **Review and Update of Fraud Control Plans**

The Provider must review and update the Fraud Control Plan at least every six months over the term of the Grant Agreement; or whenever there is a significant change in the structure or activities of the Provider.

The Provider must provide the Department with details of any review and a copy of any update to the Fraud Control Plan within 10 days of request.

The Department will review Provider Fraud Control Plans as part of overall program fraud control risk management. The Department will not approve, endorse or otherwise accept responsibility for Provider Fraud Control Plans. Lack of feedback on Provider Fraud Control Plans must not be taken as tacit or implicit approval or acceptance.

### **Reporting Incidents of Fraud**

The Provider must report incidents of suspected or potential fraud to the DSS Fraud Hotline. This includes suspected or potential fraud perpetrated by Customer, Employers, Participants, employees, subcontractors.

Early identification will minimise potential loss to the Commonwealth and reputational risk to the Commonwealth, the Provider and the DES program.