



**Australian Government**



# **Managing and Monitoring Mutual Obligation Requirements Guidelines**

**V 1.5**

## **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>Managing and Monitoring Mutual Obligation Requirements Guidelines .....</b>	<b>1</b>
<b>Table of Contents .....</b>	<b>2</b>
Document change history .....	3
Background .....	3
<b>1. Defining Mutual Obligation Requirements .....</b>	<b>5</b>
Determining Mutual Obligation Requirements .....	6
Considering a Participant’s circumstances.....	6
Mutual Obligation Requirements for Principal Carer Parents .....	7
Mutual Obligation Requirements for Participant with a Partial Capacity to Work .....	9
Mutual Obligation Requirements for Participants with temporary reduced work capacity .....	9
Mutual Obligation Requirements for mature age Participants .....	10
Mutual Obligation Requirements for some Ministers of Religion .....	11
Monitoring by Services Australia for Participants fully meeting their requirements .....	11
Continuing voluntarily in Employment Services .....	11
Sufficient work test .....	11
Mutual Obligation Requirements for Early School Leavers .....	12
Mutual Obligation Requirements for pregnant Participants .....	13
Participants exempt from Mutual Obligation Requirements .....	13
Suitable Activities to meet Mutual Obligation Requirements .....	15
Breaks in Activities .....	16
<b>2. Suitable work .....</b>	<b>16</b>
Unsuitable work for Principal Carer Parents.....	17
Unsuitable work for Participants with a Partial Capacity to Work .....	17
<b>3. Job Search Requirements are an important part of Mutual Obligation Requirements .....</b>	<b>17</b>
Participants who do not have Job Search Requirements .....	18
<b>4. Privacy and information sharing.....</b>	<b>20</b>
Sharing Job Plans with SEE or AMEP Providers.....	21
<b>5. Summary of Required Documentary Evidence .....</b>	<b>21</b>
Notification to Participants of their Mutual Obligation Requirements .....	21
Approved Activities .....	21
Attachment A – Early School Leaver Facsimile Cover Sheet .....	22

### Document change history

Version	Effective Date	End Date	Change and location
1.5	1 January 2023		<p><b>Amendment:</b> Removal of all references to the PaTH Internships and the National Work Experience program as a result of the cessation of these programs that came into effect on 9 September 2022.</p> <p>Changes made on page 14 to reflect updated advice about the support and referrals processes for participants experiencing FDSV.</p> <p><b>Amendment:</b> Updated to clarify that Providers can reduce a Participant’s Job Search Requirement to zero where the participant is not able to look for work when they are undertaking an approved course for language, literary and numeracy issues.</p>
1.4	08 Aug 22	31 December 2022	<p>Amend Activities available to DES Participants from 8 August 2022.</p> <p>Update description of Study and Training requirements.</p>
1.3	13 Sep 2021	30 Jun 22	<p>Changes throughout to improve consistency.</p> <p>Updated ‘job seeker’ references to ‘Participant’.</p> <p>Removed references to <i>Guide to Social Security Law</i>.</p>
1.2	09 Mar 2020	12 Sep 2021	<p>Remove references to Department of Human Services and replace with Services Australia.</p> <p>Remove references to Newstart and replace with JobSeeker Payment.</p> <p>Remove references to Department of Employment and replace with Department of Education, Skills and Employment.</p>
1.1	3 Dec 2018	8 Mar 2020	<p>References to program upper age limit updated to reflect alignment with the Aged Pension qualifying age.</p> <p>Mutual Obligation Requirements for mature age participants aged 55-59 years updated to reflect policy change from 20 September 2018.</p> <p>Added Documentary evidence requirement clarifications.</p>
1.0	1 Jul 2018	2 Dec 2018	Original version of document

### Background

Participants generally have Mutual Obligation Requirements, such as looking for work and participating in Activities that will improve their employment prospects, in return for receiving taxpayer-funded income support paid by Services Australia.

The main aim of Mutual Obligation Requirements is to help a Participant into paid work and reduce reliance on income support as quickly as possible. It also allows for Participants to contribute to the community that supports them while they are unemployed.

### Disability Employment Services Grant Agreement clauses:

Section 3C – Control of Protected Information  
Section 3D – Records management  
Section 5G – Job Plans  
Section 5H – Targeted Compliance Framework and Activities

**Reference documents relevant to this guideline:**

Learning Centre website  
Targeted Compliance Framework Guidelines  
Job Plan and Setting Mutual Obligation Requirements Guidelines  
Disability Support Pension Recipients (Compulsory Requirements) Guidelines  
Period of Service Guidelines  
Programme Review, Programme Summary and Exits Guidelines  
Social Security Act 1991  
Guide to Social Security Law

**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. Defining Mutual Obligation Requirements

Participants on the following Income Support Payments must meet their Mutual Obligation Requirements to receive their payment:

- JobSeeker Payment
- Youth Allowance (other)
- Parenting Payment Single (when their youngest child turns six)
- Special Benefit (Nominated Visa Holders).

Participants' Income Support Payments are generally paid in fortnightly instalments, so Participants must have and satisfy sufficient Mutual Obligation Requirements for each fortnight that they are receiving Income Support Payments.

A Participant's Mutual Obligation Requirements are generally determined by considering their:

- age
- assessed work capacity, and
- whether they have primary responsibility for the care of a child.

Participants with full-time requirements should be looking for work full-time and actively addressing the individual circumstances that affect their capacity to undertake paid work.

Participants with part-time Mutual Obligation Requirements are:

- Principal Carer Parents whose youngest child is 6 years of age
- Participants with a Partial Capacity to Work of 15 to 29 hours per week.

Participants' Mutual Obligation Requirements include:

- entering into a Job Plan and fully complying with the requirements in their Job Plan
- attending all appointments with Services Australia and/or a Provider
- acting on Job Referrals and attending Job Interviews offered by employers
- undertaking Job Searches (up to 20 Job Searches per month)
- participating in any Activity at any time that is relevant to their personal circumstances and will help the Participant to improve their employment prospects.

A broad range of Activities can be used to meet a Participant's Mutual Obligation Requirements. The *DES Activity Management Guidelines* outline a range of defined and informal Activities a Participant may undertake.

Refer to the *Job Plan and Setting Mutual Obligation Guidelines* for information about Job Plan codes.

The Activities Participants undertake must be included in their Job Plan as either a compulsory or voluntary Activity. There must be at least one compulsory Activity included in a Job Plan for Participants with Mutual Obligation Requirements.

Voluntary Activities are not subject to the job seeker Targeted Compliance Framework.

## **Determining Mutual Obligation Requirements**

When determining Mutual Obligation Requirements it is important to identify both a Participant's strengths as well as any barriers they have in finding employment. Any vocational and non-vocational Activities are to be tailored to address the Participant's individual needs and work capacity.

Consider and seek out Activities that will help Participants overcome or manage any vocational and non-vocational barriers.

For the purposes of Social Security Law, a Job Plan is an 'Employment Pathway Plan', and a 'Participation Plan' for Disability Support Pension recipients aged less than 35 years of age with compulsory requirements.

Activities or other requirements in the Job Plan must not place unreasonable demands on the Participant. The Participant must be capable of doing any Activity and meeting all requirements included in their Job Plan.

After consulting with the Participant, determine the Activities to meet the Participant's Mutual Obligation Requirements in accordance with the DES Grant Agreement, these Guidelines and Social Security Law. Providers should take into account the Participant's preferences wherever possible. However, as a delegate of the Secretary of the Department of Employment and Workplace Relations, Provider staff will ultimately determine what Activities the Participant must do to meet their Mutual Obligation Requirements under Social Security Law.

Record the Activities and other relevant items in the Participant's Job Plan, and schedule Activities in the Calendar. If drug or alcohol dependency is impacting on participation and appropriate treatment services are not available the Provider must record this information on the Participant's Personal Summary Page ('What you need to know').

Under Social Security Law, Participants must be formally notified of the dates, times and locations for attending appointments and participating in Activities, along with any special requirements such as wearing work boots and other safety gear.

## **Considering a Participant's circumstances**

When determining a Participant's Mutual Obligation Requirements and setting the terms of a Job Plan, consult with the Participant and consider:

- individual circumstances – in particular, their assessed work capacity (where relevant), their capacity to comply with requirements and their personal needs
- education, experience, skills and age
- the impact of any disability, illness, physical or mental condition or other non-vocational issue, including drug and alcohol dependency, that affects a Participant's ability to work, look for work or participate in Activities
- the state of the local labour market and the transport options available to the Participant in accessing that market
- the participation opportunities and Activities available to the Participant
- their family and care responsibilities (including availability of child care)
- the length of travel time required to comply with the requirements (reasonable travel time is 90 minutes each way or, if the Participant is a Principal Carer Parent or has a Partial Capacity to Work, 60 minutes each way)
- the financial costs (such as travel costs) of complying with the requirements and the Participant's capacity to pay for such costs

- whether the Participant has any vulnerability indicators (as identified by Services Australia) such as homelessness, psychiatric problems or mental illness, severe drug or alcohol dependency, or traumatic relationship breakdown
- any history of the Participant not complying with their Mutual Obligation Requirements (to ensure that they undertake appropriate requirements in return for tax-payer funded income support)
- cultural factors
- if they are an Early School Leaver
- where the Participant participated in Time to Work Employment Service, any comments and recommendations in the Time to Work Employment Service Transition Plan - (Providers can find the Transition Plan in the Department's IT Systems)
- any other matters that the Provider considers relevant to the Participant's circumstances (including if the Participant discloses that they are a victim of family violence).

When setting the Participant's Mutual Obligation Requirements, review any barriers identified through an Employment Services Assessment (ESAT) or Job Capacity Assessment (JCA) or other issues disclosed to the Provider. The Job Seeker Classification Instrument and Capability Management Tool may also help identify personal issues that may affect a Participant's employability. These will help the Provider decide on the Activities required of a Participant to meet their fortnightly Mutual Obligation Requirements.

Information on a Participant's circumstances is available on the Participation Profile screen of the Department's IT Systems.

### Using the Capability Management Tool

The Capability Management Tool in the Job Plan section of the Department's IT Systems must be updated when conducting a Capability Interview, or at any the Participant discloses new barriers. It should be used to review and manage a Participant's personal circumstances that may affect their capacity to participate in Activities or result in identifying specific vocational or non-vocational issues, including those disclosed by the Participant.

The Capability Management Tool can help Providers to:

- ensure that the Participant has requirement in their Job Plan appropriate to their circumstances
- include ESAT recommended Interventions in the Job Plan
- record additional vocational or non-vocational issues.

Providers should familiarise themselves with relevant DES Grant Agreement provisions in case Participants request access to their records in the Capability Management Tool.

(DES Grant Agreement Clause 41, 45, Annexure A)

### **Mutual Obligation Requirements for Principal Carer Parents**

Consider a Principal Carer Parent's family and caring responsibilities, including the availability of suitable child care, when setting Mutual Obligation Requirements. During school terms, face-to-face Provider Appointments and participation Activities should be scheduled during school hours (generally between 9.00 am to 3.00 pm) unless otherwise agreed to by the Principal Carer Parent.

The Department's IT Systems will automatically identify time outside of school hours in the Principal Carer Parent's Calendar. Providers will be able to set requirements at times outside school hours, including weekends. However, Providers will need to discuss this with the Principal Carer Parent to

ensure they are available at that time and record the Principal Carer Parent's availability in the Department's IT Systems. This information will be attached to the requirement.

Principal Carer Parents have part-time Mutual Obligation Requirements and can fully meet their requirements through 30 hours per fortnight of:

- paid work (including self-employment)
- approved study (see the section on Approved Short Courses in these Guidelines)
- Voluntary Work (as described below), or
- a combination of the above.

Providers can approve Voluntary Work for the purposes of a Principal Carer Parent fully meeting their Mutual Obligation requirements if:

- the Provider determines that the Principal Carer Parent lives in a weak labour market
- limited training opportunities are locally available (online courses may be considered 'locally available' if they have access to a computer)
- there is a significant vocational aspect to the Voluntary Work.

The Voluntary Work must be in an organisation approved by Services Australia.

If the Principal Carer Parent fully meets their Mutual Obligation Requirements through sufficient participation in the above Activities they cannot be required to complete Job Search or meet any other additional requirements.

A Principal Carer Parent who is fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks.

If a Principal Carer Parent is either 55 years of age or over or has a Partial Capacity to Work, the category of Mutual Obligation Requirement which gives the Participant a lesser work requirement should be applied.

### Meeting Mutual Obligation Requirements for Principal Carer Parents during school holiday periods

If a Principal Carer Parent is unable to obtain suitable child care during the school holiday period, the Provider will need to make alternative arrangements to enable them to meet their Mutual Obligation Requirements. A Principal Carer Parent will not be required to attend an Activity during the school holidays if appropriate care and supervision of their children is not available or affordable.

Job Search can also be conducted from home or the Provider may also decide to reduce Job Search requirements over the school holiday period, while the Principal Carer Parent is caring for children during school holidays.

Principal Carer Parents must continue to meet their part-time Mutual Obligation Requirements during the school holidays except for the fortnight in which the Christmas public holiday falls.

### Employer initiated shut down period over the extended Christmas/New Year school holiday break

Principal Carer Parents who are fully meeting their Mutual Obligation Requirements by working 30 hours a fortnight (including instances when working is one of a combination of Activities) are considered to be meeting their requirements during the employer initiated shutdown period over



the extended Christmas/New Year school holiday period. This only applies to Principal Carer Parents who reasonably expect to continue in their employment when their employment resumes in the New Year.

The employer initiated shut down period break can only be taken while the place of employment is closed, up to a maximum of eight weeks. After eight weeks the Principal Carer Parent will be required to participate in other Activities to meet Mutual Obligation Requirements while the employer is in the shutdown period.

*Inability to obtain suitable child care is an Acceptable or Valid Reason.*

If the Principal Carer Parent is required to undertake an Activity but is unable to obtain suitable childcare, they will have an Acceptable or Valid Reason to not undertake that requirement. If this occurs, alternative requirements must be set to enable the Participant to meet their Mutual Obligation Requirements.

### **Mutual Obligation Requirements for Participant with a Partial Capacity to Work**

Participants have a Partial Capacity to Work if both their baseline work capacity and work capacity within two years of Intervention are less than 30 hours per week.

Mutual Obligation Requirements are based on a Participant's work capacity within two years with Intervention. However, Participants are not required to immediately participate at the higher work capacity. Rather, the Participant's capacity to participate can be increased through participation in a suitable program of assistance or other appropriate Activity.

When a Participant's work capacity with Intervention is less than their baseline work capacity due to a deteriorating condition, their Mutual Obligation Requirements are based on their baseline work capacity.

Participants with an assessed Partial Capacity to Work of 15-29 hours per week can fully meet their part-time Mutual Obligation Requirements through 30 hours per fortnight of paid work including self-employment, approved study, or a combination of these Activities.

If they fully meet their Mutual Obligation Requirements through sufficient participation per fortnight in the above Activities these Participants cannot be required to undertake Job Search or meet other requirements and will be Suspended on a Provider's caseload.

Participants with an assessed Partial Capacity to Work who are fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks. If the Participant is meeting DES Outcome conditions through sufficient participation in paid work or study, they would instead normally remain on the Provider's caseload in Post Placement Support.

Participants who have been assessed as having a Partial Capacity to Work of 0-14 hours per week can fully meet their Mutual Obligation Requirements by attending quarterly appointments with Services Australia. Where these Participants volunteer for DES, any other Activities included in the Job Plan by the DES Provider must be voluntary activities.

### **Mutual Obligation Requirements for Participants with temporary reduced work capacity**

Participants may have a temporary medical condition with a temporary reduced work capacity applied by Services Australia (which is identified through an Employment Services Assessment). Participants will have reduced requirements for the period of their temporary reduced work

capacity. Providers must take this into account when setting suitable approved Activities and the level of participation in the Job Plan.

If a Provider considers a Participant without a temporary reduced work capacity is impacted by a medium or long term medical condition, the Provider should take these personal circumstances into account when setting Mutual Obligation Requirements and record the information about the Participant's circumstances in the 'What you need to know' section of the Department's IT Systems. Providers should exercise judgement and take these personal circumstances into account when setting Mutual Obligation Requirements. Medium or long term medical conditions are usually episodic or chronic in nature and include schizophrenia, psychosis, depression and anxiety. Where appropriate, Providers should advise Participants to contact Services Australia so that a temporary reduced work capacity status can be considered.

Participants who have been assessed as having a temporary reduced work capacity of 15-29 hours per week can fully meet their Mutual Obligation Requirements through 30 hours per fortnight of paid work (including self-employment) approved study or a combination of these Activities.

If the Participant is fully meeting their Mutual Obligation Requirements through sufficient participation per fortnight in the above Activities they cannot be required to undertake any Job Search or meet other requirements. They do not need to remain connected to a Provider and will be Suspended from the Provider's caseload.

Participants with an assessed temporary reduced work capacity who are fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks. See the *Period of Service Guidelines*, and *Program Review, Program Summary and Exits Guidelines*.

Participants who have been assessed as having a temporary reduced work capacity of 0-14 hours per week can fully meet their Mutual Obligation Requirements through participation in a quarterly interview with Services Australia.

### **Mutual Obligation Requirements for mature age Participants**

Participants aged 55 years up to (but not including) the Pension Age can meet their full-time Mutual Obligation Requirements through paid work (including self-employment), approved Voluntary Work or a combination of these Activities, depending on their age and circumstances, as follows.

- If the Participant is aged 55 - 59 years and in their first 12 months of receiving an Income Support Payment, they can fully meet their Mutual Obligation Requirements by participating in 30 hours per fortnight of paid work. This can also be met by completing 30 hours per fortnight of a combination of approved study, Voluntary Work and paid work. However, this must include at least 15 hours per fortnight of paid work.
- If the Participant is aged 55 - 59 years and has been receiving payment for more than 12 months, they can fully meet their Mutual Obligation Requirements if they undertake at least 30 hours per fortnight of paid work, approved Voluntary Work or a combination of the two Activities.
- If the Participant is aged between 60 and the age pension age, they can fully meet their Mutual Obligation Requirements by participating in at least 30 hours per fortnight of paid work, approved Voluntary Work or a combination of the two Activities.

These Participants cannot be required to do Job Search or other requirements if they are meeting their Mutual Obligation Requirements in this way.

Participants should remain connected with a Provider but will be Suspended on a Provider's caseload. However, Providers can continue to refer them to job opportunities. Services Australia will make an initial Appointment with the Provider for Participants 55 years of age and over, even if they are already satisfying their Mutual Obligation Requirements (as above). Participants who fail to attend this Appointment or any other notified Provider Appointments or who fail to accept referrals to jobs, may be subject to action under the Targeted Compliance Framework. See the *Targeted Compliance Framework: Mutual Obligation Failures Guidelines*.

### **Mutual Obligation Requirements for some Ministers of Religion**

Ministers of Religion who are either a Principal Carer Parent or have a Partial Capacity to Work will be regarded as fully meeting their part-time Mutual Obligation Requirements by undertaking at least 30 hours per fortnight of paid pastoral work for their religious organisation.

### **Monitoring by Services Australia for Participants fully meeting their requirements**

For the above cohorts of Participants, Services Australia will determine whether a Participant is fully meeting their Mutual Obligation Requirements. If Services Australia establishes that they are participating sufficiently in appropriate Activities, they will update the Participant's Job Plan to include the Activities they are undertaking to fully meet their Mutual Obligation Requirements. Once Services Australia determines a Participant (other than a mature-age Participant) is fully meeting their Mutual Obligation Requirements in a way that will not result in a DES Outcome, the Participant may be a Services Australia managed job seeker and Exited from the Provider's caseload.

If a Participant is in Post Placement Support or Ongoing Support, ongoing servicing and updating the Participant's Job Plan will continue to be done by the DES Provider as appropriate.

### **Continuing voluntarily in Employment Services**

A Participant who is fully meeting their Mutual Obligation Requirements will be Suspended. The Participant may elect to participate voluntarily in services while they are Suspended after:

- being contacted by their Provider to discuss and agree to voluntarily participate while Suspended from DES
- notifying Services Australia, who will either call their Provider or book an Appointment for them
- contacting their Provider directly to request services.

If a Participant who is Suspended from employment services elects to voluntarily participate in employment services, the Provider must provide services to the Participant.

If a Participant who is fully meeting their Mutual Obligation Requirements participates voluntarily in employment services, Providers must not remove the relevant compulsory Activities that Services Australia has included in the Participant's Job Plan. Additional Activities included in the Job Plan must be added as voluntary.

### **Sufficient work test**

The decision that a Participant is doing sufficient work would generally be restricted to cases where the person can fully meet their Mutual Obligation Requirements while still receiving some payment and the person can demonstrate a stable pattern of employment and earnings (e.g. permanent part-time work). If there is significant variation in hours worked and earning from fortnight to fortnight,

whether a Participant's work fully meets their Mutual Obligation Requirements must be determined fortnightly.

Self-employment will satisfy the sufficient work test if the Participant is working at least their required number of hours and the taxable income provides the equivalent of the national minimum wage rate for the minimum required hours. If self-employment does not satisfy the sufficient work test, the Participant will generally be required to look for alternative work.



Providers must document a Participant's satisfactory participation in self-employment.

If a Participant's commitment to their business activities interferes with required Job Search or other Activities, the person will usually not be considered to be 'unemployed' for the purpose of qualifying for income support.

### **Mutual Obligation Requirements for Early School Leavers**

An Early School Leaver is a person who receives Youth Allowance (other), is aged under 22 years of age and has not completed Year 12, the final year of secondary school or an equivalent Australian Qualifications Framework Certificate III level or above.

Until they turn 22 years of age or attain Year 12 or an equivalent qualification, Early School Leavers are generally required to participate in:

- full-time education or training with no Job Search requirement, including Certificate I and II level courses
- a combination of part-time education or training and part-time work for a total of 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week) and no Job Search requirement
- other approved Activities for 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week), including the requirement to do up to 20 Job Searches per month.

Once an Early School Leaver has completed Year 12 or an equivalent qualification or turns 22 years of age, they will no longer be an Early School Leaver. They will be subject to the Mutual Obligation Requirements that apply to other Participants.

### **Verification of an Early School Leaver's qualifications**

Only Services Australia can verify a Year 12 or equivalent qualification to determine whether a young person is no longer an Early School Leaver. Services Australia will accept any of the following:


- a Year 12 certificate issued by a Senior Secondary Board of Studies
- an Australian Qualification Framework Certificate III
- a higher qualification issued by a Registered Training Organisation or higher educational institution
- a Certificate III or IV of General Education for Adults
- the International Baccalaureate
- other higher education pre-entry course.



Providers must fax an Early School Leaver's qualifications to the Services Australia Business Hotline on 1300 786 102. Sight the original and send a copy of the completed qualification with the cover sheet at Attachment A. If the original qualification has been lost or destroyed, a certified copy of the qualification or a letter from the education institution formally verifying attainment of the qualification will be accepted. If none of these can be obtained, a statutory

declaration from the Early School Leaver will be accepted. The statutory declaration must include the name of the course, date completed, name of institution and institution contact details, and must be appropriately certified. Do not send verification requests to Services Australia if the education level is below Year 12.

If Services Australia does not accept the qualification, they will contact the Provider. Providers must contact the Early School Leaver to advise them of the reason the qualification was not verified.

 Where accepted by Services Australia, update the education level information in the Job Seeker Classification Instrument to reflect the Early School Leaver's advised higher level of educational attainment.

(DES Grant Agreement references: Clause 94.5. Guide to Social Security 3.2.9.95)

### **Mutual Obligation Requirements for pregnant Participants**

Generally, Mutual Obligation Requirements for pregnant Participants will not change during the first two trimesters of pregnancy. However, Providers must take into account the Participant's personal circumstances when setting their Mutual Obligation Requirements. Pregnant Participants are exempt from Mutual Obligation Requirements from six weeks before the expected due date until six weeks following the birth of the child.

Pregnant Participants will not be required to undertake Job Search from three months before their due date. During this time, Providers cannot compel these Participants to accept job offers or referrals to job interviews.

### **Participants exempt from Mutual Obligation Requirements**

If a Participant is temporarily unable to meet their Mutual Obligation Requirements, Services Australia may grant an Exemption from requirements for a specified period. This recognises the different family and personal situations that Participants face and can prevent them from participating in Job Search, paid work, vocational training or a range of other Activities designed to improve their employment prospects.

The types of Exemptions that may be applied include but are not limited to the following situations:

- temporary medical incapacity
- serious illness
- pre and post natal
- children with a disability or other special family circumstances
- domestic violence
- other special family circumstances including:
  - if a Principal Carer Parent is a registered and active foster carer or providing foster care temporarily in an emergency, or on a respite, basis
  - if a parent is home schooling or facilitating distance education for one or more of the children or secondary pupil children for whom they are the principal carer or main supporter
  - if a Principal Carer Parent is caring for a family of four or more children aged 18 years or under
  - if a principal carer is a relative but not a parent of a child and the child is living with the principal carer in accordance with a family law order, or

- if a principal carer is a relative but not a parent of a child (kin child) and the principal carer is caring for the wellbeing of that kin child in accordance with a document accepted by the state/territory that is responsible for the wellbeing of children.
- other special circumstances, including:
  - major personal disruption to the Participant's home
  - major personal crisis (including homelessness)
  - affected by declared natural disaster, e.g. bushfire, flooding or cyclone
  - volunteering during a state or national emergency
  - temporary caring responsibilities
  - dad and partner leave
  - undertaking jury duty
  - being a newly protected witness
  - being a newly arrived refugee, or
  - undertaking Indigenous cultural business.

If a Provider believes that the Participant does not have the capacity to meet their Mutual Obligation Requirements, the Participant should contact Services Australia to test their eligibility for an Exemption. Participants will need to provide evidence to support their claim.

If applying for an Exemption due to a temporary medical condition, the Participant will need to submit appropriate evidence, for example an approved medical certificate.

However, Services Australia should wherever possible reduce a Participant's Mutual Obligation Requirements rather than exempting them completely.

Participants granted an Exemption will be Suspended from a Provider's caseload for the period of the Exemption. Some Participants with longer-term Exemptions may be Exited from a Provider's caseload. However, Participants may voluntarily choose to continue participating with employment services.

NOTE: Some Participants considering an application for a Disability Support Pension may need to demonstrate that they have actively participated in a Program of Support to be eligible for Disability Support Pension. You should advise these Participants that periods of exemption will not be counted as participation in a Program of Support.

### Participants subject to domestic violence

If a Participant discloses domestic violence, or you have concerns they are experiencing or at risk of domestic violence, explore support options and services available to them. This includes support provided by a Services Australia social worker and national or state-based organisations that offer advice and information about domestic violence.

The Participant must consent to a referral to a Services Australia social worker or other services. If the Participant does not consent to a referral, explain how they can contact services in their own time. If providing written information, ensure it is safe to do so. If you have concerns for their safety, or the safety of children, and the Participant declines support, discuss your concerns with your team leader.

Providers notified of domestic violence (including family violence) as the reason for not meet Mutual Obligation Requirements, must consider this in their assessment of whether or not the Participant had a Valid Reason.

If a Participant applies to Services Australia for an Exemption because they are subject to domestic violence (including family violence), Services Australia will make an assessment on whether an

Exemption is granted and the appropriate length of the Exemption from their Mutual Obligation Requirements.

### **Suitable Activities to meet Mutual Obligation Requirements**

Consider a Participant's individual circumstances when setting the Participant's Mutual Obligation Requirements.

Include approved Activities in the Participant's Job Plan that will enable the Participant to meet their Mutual Obligation Requirements using the correct Job Plan code linked to the Activity scheduled in the Calendar.

Depending on a Participant's circumstances, there is a range of Activities they may undertake to meet their Mutual Obligation Requirements (some of which are described below). See the *Activity Management Guidelines* for further information.

#### Observational Work Experience (OWE)

Observational Work Experience Placements provide voluntary short-term, observational unpaid work experience placements for Participants 15 years of age or over, regardless of whether the Participant is receiving an Income Support Payment. Participation in this Activity can contribute towards a Participant's Mutual Obligation Requirement.

#### Self-Employment Assistance

Participation in the Self-Employment Assistance Service of Small Business Training fully meets the Mutual Obligation Requirements of Participants for up to 8 weeks. For this 8-week period, Participants who continue to satisfactorily participate in Small Business Training cannot have their Income Support Payment suspended due to a Mutual Obligation Failure.

#### Study and Training

Providers must approve study and courses. An approved course must be included as a compulsory Activity in the Participant's Job Plan.

If a Provider approves a course and includes it in the Participant Job Plan then the Participant must generally still attend appointments with their Provider, look for work and accept suitable work as long as it does not conflict with the scheduled time of the course. Job search requirements can be reduced to reflect the Participant's study load (see below section on Job Search).

Participants who are working part time while studying are taken to be fully meeting their requirements when their combined work and study hours reach 70 per fortnight.

A Principal Carer Parent or Participant with a Partial Capacity to Work of 15 to 29 hours per week undertaking an approved study or training for at least 30 hours per fortnight is considered to be fully meeting their part-time Mutual Obligation Requirements. These recipients are managed by Services Australia and will be Suspended from the Provider's caseload.

#### Non-approved study or training

Participants can undertake other education or training under their own initiative at any time but, if the Activity is not approved (as outlined above) and included as a compulsory item in their Job Plan, this will not contribute towards their Mutual Obligation Requirements.

People undertaking a full time course that is longer than 12 months in duration should generally be placed on a student allowance. Providers should refer full time students to Services Australia for an Income Support Payment eligibility check.

### **Breaks in Activities**

If a Participant has a break in an Activity which is required to satisfy their Mutual Obligation Requirements, then the Provider must update the Participant's Job Plan with other Activities to meet their Mutual Obligation Requirements.

There is no need to adjust a Participant's requirements if they have a break of less than or equal to four weeks that is outside their control. If the break is greater than four weeks then the Participant must do other requirements, such as Job Search, for the period of the break. The Job Plan must be updated to include the new requirements.

---

## **2. Suitable work**

Participants must actively look for work and be prepared to accept any offer of suitable work in a variety of fields. Any work can be considered suitable provided it meets certain safeguards set out in Social Security Law, such as minimum statutory conditions and related health and safety considerations.

'Suitable work' includes any work that a Participant is capable of doing, not just work the Participant prefers to do or is specifically qualified for. This can include casual or permanent, and part-time or full time work depending on the Participant's assessed capacity. Participants are required to accept suitable work that may not be their first preference while they continue to look for work that better matches their qualifications, expertise and interest.

Work is unsuitable if it:

- involves skills, experience or qualifications that the person does not have and appropriate training will not be provided by the employer
- is above the Participant's assessed work capacity within the next two years with intervention
- may aggravate a pre-existing illness, disability or injury and medical evidence has been provided
- involves health or safety risks and would contravene an occupational health and safety law
- has terms and conditions which are less generous than the applicable statutory conditions
- involves commuting from home to work that would be unreasonably difficult (more than 60 minutes one way for Principal Carer Parents and those with Partial Capacity to Work and more than 90 minutes one way for other Participants)
- is considered by the Participants to be unsuitable on moral, cultural or religious grounds
- is not consistent with prevailing community standards
- is the subject of industrial dispute
- involves enlistment in the Defence Force or the Reserve Forces
- requires the person to change residence.



### **Unsuitable work for Principal Carer Parents**

In addition to the above 'unsuitable work', Principal Carer Parents cannot be required to accept employment of more than 25 hours a week. Additionally, Providers should consider whether:

- the Principal Carer Parent has access to appropriate care and supervision for their child/children during the times when they would be required to work
- the location of either the workplace or the child care facility would make the total travel time to and from work unreasonable
- the Principal Carer Parent will be at least \$50.00 a fortnight financially better off as result of working.

If a job offer to the Principal Carer Parent involves employment outside school hours or in school holidays, a job is generally considered suitable if there is appropriate care and supervision for a child during the hours of work (including the travel to and from work). Suitable care and supervision means:

- childcare provided by an approved childcare service (within the meaning of the Family Assistance Administration Act 1999)
- any other care or supervision arrangements that the parent deems suitable.

### **Unsuitable work for Participants with a Partial Capacity to Work**

In addition to the list above of 'unsuitable work', work is unsuitable for Participants with a Partial Capacity to Work if:

- it does not provide appropriate support or facilities to take account of the illness, disability or injury
- the total cost of participating in employment means that the Participant would be financially worse off as a result of undertaking the work. Examples include personal care requirements incurred by the Participant to get ready for work or while on the job; disability aids required for participation in the job that are not covered by the Employer; and the cost of travel to and from the job by the Participant's means of transport.

---

## **3. Job Search Requirements are an important part of Mutual Obligation Requirements**

Providers must set the number of Job Searches a Participant is required to undertake per month in accordance with the DES Grant Agreement, these Guidelines and Social Security Law. Record the number of Job Searches required in the Participant's Job Plan.

Participants with Mutual Obligation Requirements will usually have to look for work.

The number of Job Searches generally expected of Participants (including Principal Carer Parents and those with a Partial Capacity to work of 15 to 29 hours per week) is dependent on the individual's capacity.

Participants cannot be required to do more than 20 Job Searches per month.

### **Assessing the quality of Job Search efforts**

When assessing the quality of the Participant's Job Search efforts, Providers should consider whether the jobs applied for were:

- at a variety of levels of seniority or remuneration that is suitable for the Participant; and
- in a variety of fields and occupations in which the Participant is suitably qualified or has experience, if that work is suitable for the Participant; unless the Participant is studying or participating in training and the Provider agrees the Participant can focus on job search relevant to their field of study if it will increase the likelihood of the Participant finding sustainable employment, and
- applied for using a variety of methods to contact potential employers.

While the above must be taken into account when assessing Job Search efforts, Providers should also consider the Job Search efforts of the Participant more holistically over time. A Participant is not required to meet each of these criteria in each separate Job Search period – therefore it is important to consider factors such as:

- labour market restrictions, as the type and number of vacancies available in each Job Search period may differ; and
- the most appropriate pathway for the Participant to obtain sustainable employment. In considering this, providers could discuss and agree to a strategy for targeting Job Search efforts in advance with the Participant to increase their likelihood of securing employment.

### **Participants who do not have Job Search Requirements**

The following Participants will not be required to undertake Job Search while they are fully meeting their Mutual Obligation Requirements:

- Principal Carer Parents
- those with a Partial Capacity to Work of 15 to 29 hours per week
- Participants aged 55 and over
- Pregnant Participants are exempt from Job Search from six weeks before their expected due date until six weeks following the birth of their child
- Self-Employment Assistance Participants have their Job Search requirements reduced to zero while participating in Small Business Coaching.
- Early School Leavers who are meeting their Mutual Obligation Requirements through full-time education or a combination of part-time study and part-time work of 25 hours per week (15 hours for those with part-time Mutual Obligation Requirements) must not have any Job Search requirements in their Job Plan.
- Participants participating in a total of 70 hours a fortnight of combined declared paid work (including self-employment) and approved study or training.

### **Recording Job Search requirements in the Job Plan**

When setting compulsory Job Searches, Providers must use the JS09 code. The Department is actively monitoring Job Plans.

In some Exceptional Circumstances, Job Searches may not be required for a limited period while non-vocational issues are actively being addressed. In these cases, where no Job Searches are contained in a Job Plan, Providers must document the reason in the comments field of the Department's IT Systems.

### **Circumstances that may reduce Job Search requirements**

Do not reduce the number of Job Searches a Participant is required to undertake merely because the Participant is undertaking other Activities.

Providers may reduce the number of Job Searches as a result of a Participant's:

- participation in approved study or training
- physical, intellectual or psychiatric impairment
- non-residential treatments or counselling for drug and alcohol dependency (including Drug Court Orders)
- substantially elevated level of family and caring responsibilities
- accommodation situation, where this is likely to impede Job Search
- education or skill level, where this is likely to substantially limit job opportunities
- current employment status (part-time or casual work)
- domestic violence (including family violence) or family relationship breakdown (Services Australia may grant an Exemption from Mutual Obligation Requirements in these circumstances)
- level of English language skills, if Participant is doing a course to improve these skills
- cultural factors
- the state of the labour market and the transport options available to the person in accessing that market, for example, taking into account travel time.

#### Job Search requirements for those in approved study and training

Participants studying an approved course or can have their studies counted towards reducing Mutual Obligation Requirements, including:

- Providers can reduce and tailor a Participant's requirements by taking into account their study/training
- Participants who are working and studying/training for at least 70 hours per fortnight will have no Job Search requirements, but will stay connected to a Provider.

Participants are still required to accept any suitable work that does not conflict with scheduled course times and Providers should consider what is an appropriate level of Job Search which will not interfere with Participants' ability to undertake their approved study/training.

Where studying an area of identified skill needs in a demand area which would be likely to improve a Participant's employability, Participants may initially restrict their Job Search to that skill area. For example, Participants studying an aged care related qualification should be allowed to initially restrict their Job Search to that field. However, Providers have discretion to require Participants to diversify their job search, particularly where previous searches in that area has have been unsuccessful or there is little immediate likelihood of finding work in the area studied.

Participants who combine declared work and approved study/training for at least 70 hours per fortnight are not required to look for additional work or participate in other activities. However, they should remain connected to the Provider and may be referred to suitable work opportunities that do not conflict with their study or work.

#### Job Search requirements for Early School Leavers who are not meeting their requirements through study or paid work

Early School Leavers who are meeting their Mutual Obligation Requirements through approved Activities other than just paid work and study for 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week) must have up to 20 Job Searches per month in their Job Plan.

### Job Search requirements while studying Language, Literacy and Numeracy courses

If a Provider has identified that a Participant needs to improve their Language Literacy and Numeracy skills, the number of required Job Searches may be reduced to zero where the participant is not able to look for work while the Participant is actively participating in an accredited Language Literacy and Numeracy course. Approved courses include the Skills for Education and Employment program and the Adult Migrant English Program.

### Job Search requirements for Participants aged 60 years and over

The number of Job Searches required by Participants aged 60 years of age and over is, dependent on their capacity, up to 10 job searches per month.

In setting an appropriate number of Job Searches, in addition to other considerations, Providers may also consider:

- other non-vocational issues or vocational issues that are being, or have been addressed
- if the Participant has undertaken re skilling or re-training.

### Job Search requirements for those in paid work

For Participants with full-time Mutual Obligation Requirements:

- if doing at least 40 hours of declared paid work (including self-employment) per fortnight then the number of Job Searches should be halved. If the Participant is doing a significant number of hours of paid work per week and receiving only a residual amount of income support, the number of Job Searches may be reduced further.
- if doing at least 70 hours of declared paid work (including self-employment) per fortnight then the Participant should have no Job Search requirement.
- if doing at least 70 hours of combined declared paid work (including self employment) and approved study or training per fortnight then the Participant should have no Job Search requirement.

For Participants with part-time Mutual Obligation Requirements (Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week):

- if doing 11 to 29 hours of declared paid work (including self-employment) per fortnight, the number of Job Searches should be halved
- if doing 30 hours or more of declared paid work (including self-employment) per fortnight, the Participant should have no Job Search requirement.

---

## **4. Privacy and information sharing**

Providers must comply with Social Security Law and Australian privacy legislation. A Participant's Personal Information must only be used or disclosed for the purpose it was collected, except in limited circumstances such as where the Participant gives permission or where Commonwealth laws allow or other special circumstances.

Providers should seek independent legal advice if they have any concerns regarding their obligations under any privacy or other legislation. For further information, refer to the *Privacy Guidelines*.

(DES Grant Agreement references: Section 3C)





## Sharing Job Plans with SEE or AMEP Providers

Providers should encourage Participants participating in the Skills for Education and Employment (SEE) program or Adult Migrant English Program (AMEP) to share their Job Plans with their SEE or AMEP Providers in order to make them aware of their full Mutual Obligation Requirements.

---

## 5. Summary of Required Documentary Evidence


### Notification to Participants of their Mutual Obligation Requirements

-  The Provider must notify Participant of their Mutual Obligation Requirements in accordance with the reasonable notice timeframes for the relevant method of notification.
-  The Provider must create a notification record in the Department's IT Systems, identifying the method of notification used (i.e. SMS, email or letter).
-  If the Provider is in direct contact with the Participant, the Provider must record as the notification method that the appointment was booked directly with the Participant.
-  Where an Activity or Appointment is rescheduled by the Provider, formal notification must be issued to the Participant of their new requirements.

**Note:** If the Provider chooses to record the Participant's Activity details in the Activity Diary, this will help them to issue notification of the specific details of participation in an Activity to the Participant.

(DES Grant Agreement reference: Section 5H)

### Approved Activities

-  In addition to recording the relevant information in the Department's IT Systems, Providers must retain the following additional forms of evidence (either hard copy or soft copy):
  - timesheets or other records of attendance, including information collected through the Supervisor App, where used
  - a statement of attainment or similar (for accredited education)
  - a signed training notice or signal notice (for Defence Force Reserves)
  - an invoice for services or a letter of acceptance into a program (for non-vocational interventions)
  - Activity Host Organisation Agreements for Voluntary Work and Observational Work Experience Placements
  - risk assessment documentation which details that all DES Grant Agreement and relevant guideline requirements have been considered for both the Participant and the Activity (for Activities where risk assessments are required to be undertaken)
  - payslips or Employer payroll summaries (for part-time work)

Where Activity attendance information has been entered by the Activity Host Organisation into the Mobile Supervisor's App or directly into the Department's IT Systems, or the Participant has used evidenced based recording of attendance, offline records are not required to be kept.

# Attachment A – Early School Leaver Facsimile Cover Sheet

Fax to:            Services Australia Business Hotline            **1300 786 102**



## Verification of Year 12 or equivalent qualification (Office use only: CBHESL)

Attached to this Verification Facsimile Cover Sheet is evidence of a completed Year 12 or equivalent qualification (i.e. Certificate III or higher) for:

DES Participant's name \_\_\_\_\_

CRN \_\_\_\_\_

### Declaration by Provider

I have sighted:

*(tick as to which applies)*

- the original qualification
- a certified true copy of the qualification
- a letter from the relevant school or educational institution formally verifying attainment of the qualification
- a Statutory Declaration detailing the name of the course, date completed, institution and institution contact details.

Signed: \_\_\_\_\_

Name (Please print): \_\_\_\_\_

Organisation: \_\_\_\_\_

Office telephone & fax numbers: \_\_\_\_\_

Number of pages (including cover sheet): \_\_\_\_\_