



# OUTCOMES SUPPORTING DOCUMENT

## Policy Intent

This supporting document provides guidance on the requirements to claim an Outcome Fee specified in the Disability Employment Services Grant Agreement (DES Grant Agreement) and the Outcome Guidelines, including:

- claiming an Outcome;
- conducting minimum wage checks;
- claiming an Outcome when a Participant's Employment Benchmark is not available;
- manual special claims;
- Placements into labour hire arrangements;
- Outcomes based on a Qualifying Education Course;
- Non-Payable Outcomes.

## Minimum Wage Checks

The DES Grant Agreement prohibits payment of an Outcome Fee to DES providers for the Placement of a Participant in Employment that:

- contravenes Commonwealth, State or Territory legislation; or
- Employment that provides terms and conditions of Employment which are inconsistent with the relevant workplace relations laws or any instrument made under such laws.

This means, in relation to pay rates, where the Provider places a Participant in Employment that pays less than the minimum wage, this may affect the Provider's entitlement to an Outcome Fee. The Department's IT Systems checks for the national minimum wage, however, most occupations pay at an award or agreed rate which is above the national minimum wage. Therefore, it is a pre-requisite to payment of an Outcome Fee that the Participant should be paid at the appropriate level for that occupation, not merely the national minimum wage.

To check Participant is being paid the correct rate of pay, DES providers are encouraged to use the following information and tools available on the website of the Fair Work Ombudsman:

- Awards and Agreement ([www.fairwork.gov.au/resources/award-finder/pages/default](http://www.fairwork.gov.au/resources/award-finder/pages/default)); or
- Find Your Award - Pay Calculator ([calculate.fairwork.gov.au/findyouraward](http://calculate.fairwork.gov.au/findyouraward))

To check that the Participant is being paid at the relevant award amount (if applicable), the Awards and Agreement page can be used to search for appropriate awards based on job category. DES Providers can use the Find Your Award - Pay Calculator tool to calculate the base rates of pay a Participant should receive.

In some circumstances it may be necessary to call to the Fair Work Ombudsman's hotline. Please refer to [www.fairwork.gov.au/contact-us/call-us/before-you-call](http://www.fairwork.gov.au/contact-us/call-us/before-you-call) for the checklist of information that the Fair Work Ombudsman requires to provide accurate advice to callers.

Preparing this information prior to calling the hotline will ensure the process runs smoothly and efficiently.

Minimum wage rates in modern awards and the national minimum wage in Australia is reviewed annually. Changes to minimum wages resulting from the annual wage review start to apply from 1 July every year. For more information regarding the national workplace relations system in Australia refer to [www.fairwork.gov.au](http://www.fairwork.gov.au).

An Outcome Fee is only available for Participants being paid less than the national minimum wage where there is a Supported Wage System wage assessment agreement between the Employer and employee. The Supported Wage System is a process that allows Employers to pay less than the award wage by matching a person's productivity with a fair wage. For further information on the Supported Wage System, refer to the Supported Wage System Assessment Guidelines.

### **Manual Fix for Outcomes where the Employment Benchmark is showing as 'Not Determined'**

Where a participant has an Employment Benchmark of 'Not Determined', the DES Provider follow the steps below.

#### **Before confirming a Four-week Outcome:**

Contact the Help Desk to request that the Employment Benchmark from the most recent JCA/ESAt be restored to a status of 'current'.

#### **Before an Outcome Fee for the 13 Week, 26 Week and 52-week Period can be claimed**

Check that the Employment Benchmark on the Outcome Snapshot has been recorded. If the Employment Benchmark on the Outcome Snapshot is not recorded, the DES Provider should contact the Help Desk to request that:

- the Employment Benchmark from the most recent JCA/ESAt be restored to a status of 'current'; and
- the Outcome Snapshot be updated.

This ensures that the Outcome Fees will generate based on the Employment Benchmark from the most recent JCA/ESAt.

#### **Note:**

- DES providers are able to lodge a Special Claim for any Outcomes they are eligible for, where a Participant's Employment Benchmark was set to 'Not Determined' at the time the relevant Outcome was achieved.
- At no time is a Participant's Employment Benchmark based on a job seeker's DSP allowance type, current work capacity or temporarily reduced work capacity.

## Manual Special Claims: Streamlined Handling Protocol

Conformance Category	Notes
<p><b>Category One</b>  <u>Does the MSC claim submission satisfy the basic conditions for payment?</u></p> <ul style="list-style-type: none"> <li>If yes, claim moves to category 2 assessment</li> <li>If no, the claim is rejected (claim may be resubmitted with correct/complete detail)</li> </ul>	<p>The Department's Assessors will assess the following:</p> <ul style="list-style-type: none"> <li>The accuracy, appropriateness and content of the <b>Request Type, Specific Request</b> and <b>Supporting Comments</b>;</li> <li>The <b>Program Referral Types</b> (e.g. DES);</li> <li><b>Special Claim Verification Method</b> used (e.g. Discrepancy; Documentary Evidence; JEHR/JRRR Calculation);</li> <li><b>Payment Type; Outcome Snapshot ID; Discrepancy Notification</b>;</li> <li><b>Participant Outcome Claim Period</b> Start and End date;</li> <li>The reason for lodging the Special Claim (valid/invalid);</li> <li>Is the claim still available through the automated claiming system;</li> <li>Participant eligibility at <b>Placement</b> &amp;/or time of service;</li> <li><b>Placement</b> and Outcome eligibility (Non-Payable);</li> <li>Duplicate or Overlapping claim.</li> </ul>
<p><b>Category 2</b>  <u>Does the MSC claim submission contain sufficient, necessary and correct information to support the requested payment type?</u></p> <ul style="list-style-type: none"> <li>If yes, the Claim is approved and finalised</li> <li>If no, the Claim is rejected (*Claim may be resubmitted with correct/complete detail)</li> </ul>	<p>The Department's Assessors will review the Supporting Comments for:</p> <ul style="list-style-type: none"> <li>Request details and instructions specific to the MSC/Override, (e.g. <b>Permissible Break</b> details); AND assess the <b>Outcome Verification</b> details to test:</li> <li>that the income/hours detail provided support the requested payment type and where required;</li> <li>Align with Centrelink Pay Periods for activity tested Job Seekers;</li> <li>Provide additional income/hours detail to account for <b>Permissible Breaks</b>;</li> <li>Provide sufficient income/hours detail for the entire <b>Outcome Period</b>.</li> </ul> <p>Review the complete Special Claims submission to assess (where applicable):</p> <ul style="list-style-type: none"> <li>The eligibility of the <b>Placement</b> and/or <b>Outcome against the Grant Agreement requirements</b>;</li> <li>Requirements of Qualifying Education Course are satisfied;</li> <li><b>Directly Related Employment Bonus or Moderate Intellectual Disability Payment</b> requirements are satisfied.</li> </ul>

Whenever a special claim is lodged in ESS for an Outcome it must be supported by sufficient earnings and/or hours worked information: this information is entered into ESS via the most appropriate or prescribed outcome verification method.

1. Discrepancies – where Provider obtained information contradicts earnings reported to Centrelink,
2. Documentary Evidence – where earnings/hours worked information from Services Australia-Centrelink is incomplete or unavailable,
3. JEHR/JRRR Calculation – where they can be linked to an Outcome Snapshot.

Note: Where the above options are not/no longer available earnings/hours worked information can be submitted via the Salary/Wages tab.

### **Availability of Outcome Fees and Other Fees for Labour Hire Arrangements**

The following advice applies where Participants are employed by the labour hire organisation rather than any organisation to which they may be assigned to. Labour hire arrangements involve an 'in-between' labour hire organisation assigning workers to a host organisation to fill short or long-term positions.

For DES purposes, this means that the placement with the labour hire organisation is considered to be the relevant Employment Placement - the labour hire organisation is the Employer. The terms of the Participant's Placement with the labour hire organisation are therefore relevant when determining whether an outcome fee may be claimed.










Where a Participant is placed into an Employment Placement with a labour hire organisation, Providers must record the details of that Placement Department's IT systems, identifying the labour hire organisation as the Employer.

Since the labour hire organisation is the Employer under the DES program, any relationship between the labour hire organisation and the DES Provider defines the Placement. That is:

- a Placement within a DES Provider's internal labour hire division is an *Own Organisation* Placement
- a Placement within a separate labour hire organisation that is part of the Provider organisation is a *Related Entity* Placement
- a Placement with an independent external labour hire organisation is a normal external Employment Placement arrangement.

Identifying whether the labour hire organisation is the Provider's Own Organisation, a Related Entity or an external organisation is important in determining whether Wage Subsidies or Outcome Fees will be payable.

The effect of these variables in terms of the potential availability of Outcome Fees and Wage Subsidies is summarised in the table below (noting that all of the other requirements for payment of those Fees and Wage Subsidies would also need to be met).

Labour Hire Organisation Status	Wage Subsidy	Four-week Outcome	13, 26 and 52-week Outcome Fee
Own Organisation	 Not available*	 Not available	 Available
Related Entity	 Not available*	 Not available	 Available
External employer (not related)	 Available	 Available	 Available

**Note:** Wage subsidies are never available to the DES Provider where the Employer is the labour hire organisation and it is an Own Organisation or Related Entity Placement. For more information, please see the definitions in the Disability Employment Services Grant Agreement.

### Case Study

Provider X is located in NSW and operates an internal labour hire organisation as part of its DES organisation. Provider X began placing its DES participants within its own internal labour hire division. This labour hire division then contracts these Participants out to 'host Employers' such as local industry and retailers who are in need of employees. The DES Provider continues to provide support and on the job training to their Participants. The Provider records the host Employer in the Employment Services System (ESS) as the Participants' Employer. Provider X claims a Four-week Outcome for successfully placing the Participants in Employment. Provider X also claims Wage Subsidy Fees for the internal labour hire organisation. Provider X continues to source participants for local Employers, and has developed a strong reputation in the local area for providing suitable candidates for short and long term work contracts through its labour hire division.

DES providers may choose to operate a labour hire organisation as part of its DES organisation. Under such an arrangement, and as defined in the DES Grant Agreement, the DES Provider is placing Participants into Employment within an own entity. Noting this, Four-week Outcomes and Wage Subsidies must not be claimed by the DES Provider.

Wage Subsidies are available for DES providers to offer financial assistance that encourages Employers to provide sustainable Employment opportunities for eligible participants. Wage Subsidies are not payable to a providers' internal labour hire organisation. As the DES Provider is funded to deliver employment services, any further funding such as Wage Subsidies would be considered double funding.

DES providers can claim Outcome Fees if their Participant has been employed for:

- at least 13 Consecutive Weeks from the Anchor Date for the 13-week Period;

- at least 26 Consecutive Weeks from the Anchor Date for the 26-week Period;
- at least 52 Consecutive Weeks from the Anchor Date for the 52-week Period; and
- the Employment period is considered ongoing and sustainable.

If the Participant has been placed into Employment for a fixed or short period, the role cannot be considered ongoing, nor can an Outcome Fee be claimed.

### **Outcome based on a Qualifying Education Course (Case Studies)**

The Department has received a number of queries requesting clarification on whether a specific course meets the definition of a Qualifying Education Course. The following case studies are intended to assist DES providers in determining whether a course may be defined as a Qualifying Education Course.

1. A Participant wishes to undertake a single qualification course in business administration. The course is Austudy approved and meets the definition of Full-Time Study in the Grant Agreement. Instead of Semesters, the course is broken down into four terms over a 10 month period. Each term is nine weeks in length with a two-week break between each term.

The course in this scenario meets clause (a) and clause (c) of the definition of a Qualifying Education Course in the Grant Agreement. The combined length of two terms listed in this scenario is equivalent to the required length of a Semester and is within one half of a 12 month period of Full-Time Study. Based on the number of terms, the course has the equivalent of two or more Semesters in duration within a 12 month period. Consequently, in this instance the course satisfies clause (b) of the definition of a QEC. This means that the course meets the definition of a Qualifying Education Course and the DES Provider may be eligible for an Outcome after the Participant completes the second term.

2. A Participant undertakes a single qualification course that is Austudy approved and is defined as full-time study by the educational institution. The course runs continuously for 26 weeks with no defined Semesters.

The course in this scenario meets clause (a) of the definition of a Qualifying Education Course in the Grant Agreement. The intent of the Qualifying Education Course definition is for the Participant to study a course that is substantial in length. The duration of this course may satisfy clause (b) of the definition of a Qualifying Education Outcome if the educational institution considers the course to be equivalent of two semesters of Full-Time Study. If the training institution does consider the course to be equivalent of two semesters of Full-Time Study, the course does satisfy the requirements of a Qualifying Education Course.

Where clause (c) of the definition of a Qualifying Education Course in the Grant Agreement is satisfied due the definition of the course as full-time (based on the educational institution's determination), the course must have weekly hours similar to those set out in clause (a) and/or (b) of the definition of Full-Time Study.

3. A Participant undertakes a single qualification course by correspondence through distance education. The course is Austudy approved and runs for 51 weeks.

Education Outcomes can be achieved where a course that is by correspondence meets the definition of a Qualifying Education Course. Clause (b) of the definition of a Qualifying Education Course in the Grant Agreement notes that a Qualifying Education Course must be normally of two or more Semesters in duration within a 12-month period and clause (c) requires the course to be Full-Time Study. If the educational institution confirms that this course is equivalent to two Semesters of Full-Time Study, as defined by the DES Grant Agreement and the Participant is undertaking the course at a full-time capacity as also defined in the DES Grant Agreement then the course would meet the definition of a Qualifying Education Course.

### **Non-Payable Outcome (Case Studies)**

The case studies below are intended to assist DES providers in determining whether the nature of Employment may be defined as a Non-Payable Outcome.

#### **Not Open Employment**

1. *A Participant is employed as a door-to-door salesperson as part of a team comprised of people with disability performing similar tasks to the Participant. The Participant works independently for the majority of the day, door knocking alone.*

The 'alongside people without disability' component of the definition of Open Employment in the DES Grant Agreement will usually relate to the work environment in which the participant is directly working. In cases where the Participant is mainly working alone and where all other indicators of Open Employment are met (please refer to Attachment E of the Outcome Guidelines), the Placement may be considered Open Employment. The DES Provider may wish to request prior approval from the Department for the Placement. In this scenario if the Participant was not working independently from the team then the Placement would be considered a Not Open Employment.

2. *A Participant is employed by an organisation to manufacture novelty items. The Participant works alongside nine other employees, seven of which are people with disability.*

This is an enclave arrangement and would not normally be considered Open Employment, since the Participant would be mainly working alongside people with disability. If the duties of the position were equivalent to those of a commercial business and the workplace did not consist mainly of people with disability, the Placement may be considered Open Employment.

3. *A Participant is placed into a social enterprise where the majority of employees in the work environment are without disability.*

The Placement of a Participant into a social enterprise is a payable outcome if the Placement meets all normal requirements for an Outcome, including fulfilling the Open Employment criteria. Where a social enterprise engages Participants on an ongoing basis in a commercial setting, and where the Participant is not working in a segregated work group comprised mainly of people with disability, the Placement may be a payable Outcome.

#### **Recurring employment**

4. *Soon after a DES Provider claims an Outcome Fee for a 13 Week Period for a DES participant, the Participant chooses to exit DES. They subsequently loses their job and 15 weeks later commences a new Period of Service with the same DES Provider. The Participant's previous Employer offers to re-employ the Participant as an ongoing employee in the position that they held previously.*

Since the DES Provider claimed an Outcome Fee for a 13 Week Period for this placement in a previous Period of Service, this is Recurring employment in relation to an Outcome Fee for a 13 Week Period. The DES Provider could choose to Anchor the Employment Placement and claim a \$0 Outcome fee for a 13-week Period, and would subsequently be eligible to claim an Outcome Fee for a 26-week Period for the Employment Placement, provided all normal requirements for Outcome Fees are met.

If the Provider had claimed an Outcome Fee for both a 13 and a 26 Week Period in the previous Period of Service, the new Employment Placement would be considered Recurring employment for both the Outcome Fees for the 13 and 26 Week Periods. This means that Outcome Fees would not be payable for this Recurring employment placement. However, if Ongoing Support is required, the Participant can receive Ongoing Support after achieving a \$0 Outcome Fee for the 26-week Period. Ongoing Support fees may be available while the participant is working toward a \$0 52-week Outcome fee.

#### **Non-Ongoing Employment**

5. *A Participant is offered a nine-month fixed term contract. The Employer does not indicate that the contract is likely to be renewed and the Employer has not previously employed a DES Participant.*

This Employment is non-ongoing and there is no reasonable expectation of further Employment, and is therefore a Non-Payable Outcome. If the Employer indicated that they expected to renew the contract after 9 months, subject to satisfactory performance by the participant, the Placement would meet ongoing Employment requirements. The Placement would also be considered ongoing if the Employer frequently offers further Employment to DES Participant after a fixed term contract or DES Participants that have completed a fixed term contract for a particular job with the Employer, frequently transition into alternative Employment.

#### **Provider's Own Organisation / Related Entity employment**

6. *A Participant loses their job after 20 weeks of Employment. Their Provider then employs the Participant in a café that is a Related Entity of the DES Provider.*

This is considered to be a Non-Payable Outcome since the Employer is an entity related to the DES Provider. If the Participant was instead found alternative ongoing, Open Employment with another Employer, using Break in Employment provisions, the Provider could claim the Outcome for the 26-week Period normally. Alternatively, if the Participant was employed by the Related Entity café for the full 13/26 weeks relevant to the 13-week Period and 26-week Period, the Placement would be a payable outcome.



### **Warehouse Traineeship Arrangements**

7. Any placements made under the warehouse traineeship model will be considered a Non Payable Outcome:

- Participants are generally employed by a Group Training Organisations (GTO) with the aim of attaining or working towards the attainment of a formal qualification, such as a Certificate II and III in Warehousing Operations;
- Participants are placed by the GTO with an organisation or group of organisations, including social enterprises, to undertake work in a warehouse (the warehousing organisations gather and redistribute excess food from commercial supermarkets to charities and community organisations); and
- the majority of people working in the warehouse are participants in government programs, including DES, jobactive, Work for the Dole and School Based Apprenticeships and Traineeships.

For the avoidance of doubt, the Department considers these placements not to be Open Employment under the requirements set out in the Grant Agreement and relevant guidelines.

## Document Change History

<b>Version</b>	<b>Start Date</b>	<b>End Date</b>	<b>Change &amp; Location</b>
1.0	1 July 2018	8 March 2020	Original version of document
1.1	9 March 2020		Terminology: Replaces references of Human Services with Services Australia