



**Australian Government**



# **Capability Assessments 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 Assessments Guidelines

### Document Change History

Version	Effective Date	End Date	Change & Location
1.3	9 March 2020		Remove references to Human Services and replace with Services Australia.
1.2	1 Jul 2019	8 Mar 2020	Minor wording changes. Addition of Documentary Evidence summary section.
1.1	3 Dec 2018	30 Jun 2019	Updated references to Targeted Compliance Framework Guidelines to new title of Targeted Compliance Framework: Mutual Obligation Failures Guidelines.
1.0	01 Jul 2018	2 Dec 2018	Original version of document

### Background

Capability Assessments are a key component of the Targeted Compliance Framework. Capability Assessments are an additional protection for the most vulnerable job seekers and provide another opportunity for job seekers to disclose information that may be impacting on their ability to meet their Mutual Obligation Requirements as set out in their Job Plan.

The Capability Assessment is conducted by Services Australia. It ensures that only those job seekers who deliberately fail to meet their participation requirements face potential financial penalties.

### Disability Employment Services Grant Agreement Clauses:

Annexure A - Definitions  
Section 5H – Targeted Compliance Framework and activities

### Reference documents relevant to these Guidelines:

Referral for an Employment Services Assessment Guidelines  
Capability Interview Guidelines  
Targeted Compliance Framework: Mutual Obligation Failures Guidelines  
Work Refusal and Unemployment Failures Guidelines  
Job Plan and Setting Mutual Obligation Requirements Guidelines

### Explanatory Note:

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

## Capability Interviews Guidelines

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### 1. The Capability Assessment

The Capability Assessment is an evidence-based review conducted by Services Australia. During a Capability Assessment, Services Australia considers the appropriateness of a DES Participant's compulsory Mutual Obligation Requirements as set out in their Job Plan.

A Capability Assessment is triggered when a Participant accrues a total of five Demerits within six months and is found capable of meeting their Mutual Obligation Requirements at a Capability Interview, or it is triggered when a Participant commits a Mutual Obligation Failure that fast tracks them to the next Capability Review point and they have already had a Capability Interview.

See [Targeted Compliance Framework: Mutual Obligation Failures Guideline](#) for information on managing Mutual Obligation Failures.

#### Capability Assessment set as the Participant's Re-engagement Requirement

The Capability Assessment conducted by Services Australia is the Re-engagement Requirement for the Participant. A Re-engagement Requirement is set following an event of non-compliance by the Participant.

The Department's IT Systems will automatically identify and notify the Provider when a Participant is required to re-engage at a Capability Assessment with Services Australia following the confirmation of a fifth Demerit as described above. The Participant must contact Services Australia to participate in a Capability Assessment.

This Re-engagement Requirement is automatically determined and DES Providers must issue formal Notification to the Participant using the script provided in the Department's IT Systems. This informs the Participant that:

- they will need to contact Services Australia as soon as possible to participate in a Capability Assessment, and
- their payment will remain suspended until they do so.

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

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

The Participant will not accrue any further Demerits for non-compliance until Services Australia finalises the Capability Assessment and the outcome is received in the Department's IT Systems. If the Participant fails to comply with their requirements after they have participated in their Capability Assessment with Services Australia but before the Capability Assessment has been finalised in the Department's IT Systems, Providers can suspend the Participant's payment to encourage them to contact their Provider.

#### Work Refusal Failure or Unemployment Failure when Capability Assessment not finalised

While Participants cannot accrue Demerits for Mutual Obligation Failures if the Capability Assessment has not been finalised in the Department's IT Systems, Providers must still report Work Refusal or Unemployment Failures to Services Australia. Providers must attempt to contact the Participant on the day they become aware of the failure to discuss whether the Participant had a Valid Reason before submitting the non-compliance report to Services Australia.

See [Work Refusal and Unemployment Failures Guidelines](#) for further information on Work Refusal and Unemployment Failures.

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## 2. Undertaking the Capability Assessment and recording the outcomes

At the Capability Assessment, Services Australia will review the compulsory terms included in a Participant's Job Plan and, where required, will update the Job Seeker Classification Instrument (JSCI) and/or refer the Participant for an Employment Services Assessment (ESAt).

The Capability Assessment will determine whether a Participant will move into the Penalty Zone (if the Participant's Job Plan requirements are appropriate for their circumstances and they are capable of successfully meeting all requirements) or be returned to the Green Zone. The outcomes of a Capability Assessment are the same as the outcomes of a Capability Interview. For more information on Capability Interviews, refer to the [Capability Interview Guidelines](#).

Services Australia will notify DES Providers of Capability Assessment outcomes for their Participants via a Noticeboard message on the Department's IT Systems. Services Australia will record the outcome of the Capability Assessment and will provide sufficient information about what may need to be updated in the Participant's Job Plan and any other personal information about the Participant relevant to their ongoing servicing.

Refer to the diagram at **Attachment A** which shows the flow of information between the Department's IT Systems and Services Australia's IT system when a Capability Assessment is triggered.

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## 3. Actioning outcomes of a Capability Assessment

The Provider must review the outcome of the Capability Assessment and any servicing recommendations made by Services Australia in the Capability Management Tool (CMT). Depending on the outcome of a Capability Assessment, Providers must update the Participant's Job Plan to ensure it is appropriate and tailored to the Participant's individual circumstances and capacity. Capability Assessment outcomes must be actioned within 10 Business Days. Providers will be notified when this must occur through system messaging.

Services Australia will not be responsible for re-engaging the Participant back with their Provider following the outcome of the Capability Assessment. Based on the outcome of the Capability Assessment Services Australia has provided, Providers must contact the Participant to notify them of the outcome and what they are required to do next.

### Participant assessed as not capable of successfully meeting their Job Plan

Where the Capability Assessment indicates that the Participant is not capable of meeting their Mutual Obligation Requirements as set out in their Job Plan, Services Australia will indicate which terms in the Job Plan need to be adjusted by the Provider. The Provider must ensure each term requiring adjustment is addressed in line with any recommendations made by Services Australia. Where Services Australia has made comment on the Participant's circumstances via the CMT, the Department's IT Systems will alert the Provider to review the CMT.

When Services Australia records that the Participant is not capable of successfully meeting the requirements of their Job Plan, or newly disclosed personal circumstances need to be considered, the Provider must re-negotiate the Job Plan with the Participant, taking those factors into consideration. The Department's IT Systems will also move the Participant back into the Green Zone

and reset their Demerits to zero. The Provider must explain to the Participant the reason they were assessed as not capable of meeting their requirements, why they have been moved back into the Green Zone, and advise that their Demerits have been reset to zero.

The Provider must ensure the Participant understands all the requirements included in their updated Job Plan and must advise the Participant that if their circumstances change in the future and these changes may impact their participation, they need to immediately advise their Provider. The Provider should also reiterate to the Participant the importance of them taking personal responsibility and meeting their requirements in the future.

#### Participant not capable—circumstances impact

Services Australia will record which term of the Job Plan has been assessed as being inappropriate and why it is considered inappropriate, based on the Participant's personal circumstances. Providers must consider the reasons the terms were assessed to be inappropriate when renegotiating the Job Plan with the Participant to ensure all updates are appropriate.

#### Participant not capable—reconsideration of requirements and assistance

Services Australia will record the outcome "Job seeker not capable of successfully meeting their Job Plan—reconsideration of requirements and assistance: change of Stream or programme eligibility" if there is an update required to the Participant's JSCI or their finalised ESAt moves them to a different stream of servicing or employment program.

#### Participant may be capable but there is newly disclosed circumstances

Services Australia will record the outcome "Job seeker may be capable of successfully meeting their Job Plan but for newly disclosed circumstances" if the Participant discloses new personal circumstances which, had they been known to the Provider at the time of Demerit accrual, may have constituted an Acceptable or Valid Reason.

#### Participant not capable of successfully meeting their Job Plan—inappropriate Job Plan

Services Australia will record the outcome "Job seeker not capable of successfully meeting their Job Plan—inappropriate Job Plan" where there are errors or inappropriate requirements included in the Job Plan, such as where the Participant cannot be compelled to undertake the requirements. This would include where conflicting or excessive requirements have been set in the Job Plan. Services Australia will advise which terms are inappropriate or erroneous to aid the Provider in renegotiating an appropriate Job Plan with the Participant.

### **Participant assessed as capable**

Services Australia will record the outcome "Job seeker assessed as capable of successfully meeting their Job Plan" where Services Australia assesses that a Participant's Job Plan is appropriate and reflects the Participant's level of Mutual Obligation Requirements and personal circumstances and, as a result, they can reasonably be expected to meet their requirements.

This outcome will be recorded when the Capability Assessment has not found any new and/or ongoing personal circumstances that impact the Participant's capacity to comply with their requirements in addition to those already recorded in the CMT; the Participant has been confirmed as being in the appropriate service according to their capability, and the requirements included in their Job Plan are both lawful and appropriate and therefore do not require updating.

This outcome also means that the Participant moves into the Penalty Zone and any further non-compliance will be reported to Services Australia for penalty investigation. The Provider must ensure the Participant understands that they have been found capable of meeting their Mutual Obligation Requirements and that, based on existing evidence, their requirements have been assessed as appropriate. The Provider must make the Participant aware that any future non-compliance will be reported to Services Australia and, if applied, this means the Participant will lose money.

The Provider should review the CMT for all Participants with a Capability Assessment outcome of 'capable'. Although the Participant has been found capable based on their current requirements, Services Australia may have identified issues that the Provider will need to consider when renegotiating Participant's Job Plan in the future.

### **Timeframe to action Capability Assessment outcomes**

Providers must action the outcomes of the Capability Assessment within 10 Business Days (or earlier if possible) from the date the Capability Assessment is finalised. This is particularly important when the Capability Assessment has identified that:

- the Participant is not capable of successfully meeting their Job Plan requirements due to their personal circumstances, or
- the Job Plan contains an error or inappropriate requirements under Social Security Law or policy advice.

Providers should also be aware that further compliance action cannot be taken until the Participant's Job Plan has been appropriately updated.

**Note:** In cases where a Participant has been referred to an ESAt, they will be returned to the Green Zone with zero Demerits. The Participant's Job Plan should be reviewed and updated as appropriate at this time. However, while awaiting the outcome of an ESAt, Participants are still required to meet their Mutual Obligation Requirements, such as attend Provider Appointments and complete Job Search. Providers must consider the ESAt recommendations once the ESAt is returned and update the Participant's Job Plan as necessary.

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

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

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

## Attachment A – Summary of required Documentary Evidence

### Flow of information between the Department’s IT Systems and Services Australia’s IT system when a Capability Assessment is triggered

