



Australian Government



Capability Interview Guidelines

v 1.0

Disclaimer

This document is not a stand-alone document and does not contain the entirety of Disability Employment Services Providers' obligations. It should be read in conjunction with the Disability Employment Services Grant Agreement and any relevant guidelines or reference material issued by the Department of Social Services under or in connection with the Disability Employment Services Grant Agreement.

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Capability Interviews Guidelines

Document Change History

Version	Effective Date	End Date	Change & Location
1.0	01 July 2018		Original version of document

Background

The Capability Interview is a key component of the new Targeted Compliance Framework (TCF) commencing on 1 July 2018 and provides additional protection for vulnerable job seekers. The purpose of the Capability Interview is to ensure that job seekers are capable of meeting their current Mutual Obligation Requirements as set out in their Job Plan.

The Capability Interview provides a further opportunity for Providers to actively engage with their job seekers to identify any undisclosed issues and help them to meet their requirements. This includes reviewing the job seeker's requirements to ensure they are appropriate for the job seeker's level of capability and individual circumstances, as well as giving consideration to services or support that may be appropriate to assist the job seeker to meet requirements and move towards an employment outcome.

This ensures that only those job seekers who deliberately do not meet their requirements move forward to potential financial penalties.

Disability Employment Services Grant Agreement Clauses:

Annexure A - Definitions

Section 5 H - Targeted Compliance Framework and activities

Reference documents relevant to these Guidelines:

Referral for an Employment Services Assessment Guidelines

Capability Assessment Guidelines

Work Refusal and Unemployment Failures Guidelines

Targeted Compliance Framework Guidelines

Explanatory Note:

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

Capability Interviews Guidelines

1. Triggers for a Capability Interview

A DES Participant in the Green Zone or in the Warning Zone with fewer than two current Demerits who commits a Mutual Obligation Failure relating to a Job Interview or Job Referral, or a DES Participant who incurs three Demerits in a six-month period, will be required to have a Capability Interview with their DES Provider.

The Participant will remain in the Warning Zone with their current Demerits if the Capability Interview determines that the activity requirements and assistance outlined in the Job Plan are appropriate. The Participant will return to the Green Zone and their Demerits will be removed if the Capability Interview determines that their Job Plan requirements are not correct, not appropriately tailored to the Participant's individual circumstances, or that there has been a change of circumstances the Participant's program eligibility.

For further information on the Green Zone and Warning Zone refer to the [Targeted Compliance Framework Guidelines](#).

Scheduling the Capability Interview

The Provider must be in direct contact with the Participant to schedule the Capability Interview. The Capability Interview must be scheduled to occur within two Business Days of Participant contact. In order to give the Participant adequate notice of the requirement to attend the Capability Interview, Notification must be given either face-to-face or over the phone.

The Provider must schedule the Capability Interview in the Department's IT Systems as a Re-engagement Requirement at the same time they record that the Participant did not have a valid reason for the reason they did not accept for the Participant failing to meet their compulsory Job Plan requirement.

The Provider must ensure the Participant understands that the purpose of the Capability Interview – i.e. to provide the Participant with the opportunity to disclose any new information or circumstances which may be impacting on their capacity to meet their Mutual Obligation Requirements, as well as to discuss the recent non-compliance and the requirements outlined in their Job Plan. The Provider must also explain the reason the Capability Interview is required (either because the Participant has accrued three Demerits or because of a single event of non-compliance) and the serious potential consequences of continued non-compliance.

Providers should ensure that the scheduled Capability Interview is of sufficient length to allow for a thorough review of the Participant's personal circumstances and a comprehensive discussion.

Providers must ensure that staff conducting Capability Interviews are appropriately trained. As part of this training, staff conducting Capability Interviews are required to have successfully completed the online quiz in the Department's Learning Centre.

2. Setting a Capability Interview as a Re-engagement Requirement

Where a Participant has a third Demerit confirmed in six months, the Provider will set a Capability Interview as the Re-engagement Requirement. Participants can also be ‘fast-tracked’ to a Capability Interview if, while in the Green Zone or the Warning Zone they:

- fail to follow-up on a Job Referral, or
- fail to attend, or behave inappropriately, at a Job Interview.

If a Participant has had a Capability Interview finalised within the last 60 days by their current Provider, and the outcome was that the Participant was found capable of meeting their requirements and continuing in the Warning Zone, there is no need for the Participant to attend another Capability Interview. In this instance, the Department’s IT Systems will notify the Provider of this and the Provider will set a Provider Appointment as the Re-engagement Requirement for the Participant.

Capability Interviews must be conducted in the next two Business Days of making contact with the Participant. They must be conducted one-on-one and face to face unless Allowable Circumstances exist (see below).

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

Allowable Circumstances for non-face-to-face Capability Interviews

For the purposes of conducting a Capability Interview, ‘Allowable Circumstances’ are limited and describe circumstances that are beyond both the Participant’s and Provider’s control.

Allowable Circumstances, except as otherwise advised by the Department, are only applicable when a Participant:

- resides in an area affected by:
 - extreme weather conditions
 - a natural disaster
 - public transport strikes
 - is participating in full-time Training or Education and their participation in those activities restricts their availability to participate in a Capability Interview
 - is in paid employment and their regular hours of work restrict their availability to participate in a Capability Interview
 - is not medically fit to attend and participate in a face-to-face Capability Interview
- or
- the Provider operates Outreach/Part-time site and is not delivering services in next 2 business days.

If the Provider determines that Allowable Circumstances exist, the Provider may conduct the Capability Interview via phone or video-conferencing in order to deliver it within two Business Days of Participant contact.

To schedule the Capability Interview to be delivered via phone or video-conferencing, the Provider must record the Allowable Circumstance in the Department’s IT Systems.

While it is not a requirement, it is recommended that the Capability Interview be conducted by someone other than the staff member who negotiated the Job Plan with the Participant. The rationale for this is that the Participant may disclose new information to another staff member that they had not previously disclosed to their usual consultant. There may be situations where Site resourcing may restrict this: for example, Providers with Sites that have very limited staffing. In this situation, it may be permissible for the Capability Interview to be delivered by video conferencing, but not via phone, when a Participant attends a Provider office where the staff member delivering the Capability Interview cannot be physically present due to distance.

Participant unable to attend Capability Interview as Re-engaging Requirement

If the Participant is unable to attend a Capability Interview as a Re-engagement Requirement within the next two Business Days due to an Acceptable Reason, the Provider can schedule the Capability Interview to occur at another time. The Provider must record the reason they accepted for the Participant being unable to re-engage within two Business Days from a list of reasons in the Department's IT Systems, and the Participant's payment suspension will be lifted. The Participant is still required to attend the Capability Interview, and if Allowable Circumstances do not permit the Capability Interview to be conducted via phone or video conferencing, the Capability Interview must be scheduled within 14 Business Days of Participant contact. The Participant must be formally notified face-to-face or by phone.

If a Participant is suspended in employment services due to changes in circumstances or an exemption, the Capability Interview must be completed within 14 Business Days of the Participant returning to active services.

Participant does not have Acceptable Reason

If, at the time of scheduling the Capability Interview, or before the Capability Interview occurs, the Participant advises that they are unable to attend but the reason given is not considered by the Provider to be an Acceptable Reason, the Provider must schedule the Capability Interview anyway. The Provider must advise the Participant that they are still required to attend the Capability Interview as the reason they provided was not acceptable, and they must inform the Participant that their payment will remain suspended until they attend.

Provider circumstances impacts scheduling Capability Interview in next two Business Days

Where a provider has part-time sites or provides outreach services, there may be some instances in which the Capability Interview cannot be conducted within the next two Business Days, for example the next visit to an outreach location may not be for another five Business Days. Providers can select 'Job seeker re-engagement not required' and select the appropriate reason from the Department's IT Systems. The Capability Interview must then be booked to occur within the next 14 Business Days.

No further Demerits until the Capability Interview is finalised

Once a Capability Interview is set as the Re-engagement Requirement, the Participant will not accrue any further Demerits for non-compliance until the Capability Interview has been finalised in the Department's IT Systems. If the Participant fails to comply with their requirements after attending the Capability Interview and the Provider has not yet finalised the Capability Interview 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 a Capability Interview not finalised

While Participants cannot accrue Demerits for Mutual Obligation Failures if the Capability Interview has not been finalised in the Department's IT Systems, Providers must still report Work Refusal or Unemployment Failures to DHS. 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 DHS.

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

Participant fails to attend the Capability Interview

If the Participant fails to attend the Capability Interview, the Provider must follow the same process as for any failure to attend a Provider Appointment. That is, the Provider must attempt to make contact with the Participant on the same day of the Capability Interview. If the Provider is unable to make contact with the Participant, they should record 'Did Not Attend - Invalid' in the Department's IT Systems and book a new Capability Interview for the Participant.

While the Participant will not accrue a Demerit for not attending the Capability Interview, their payment will remain suspended until they do attend.

In the circumstances where a Provider enters an Acceptable Reason for the Participant not attending the Capability Interview, the Participant's payment will be restored. The Provider must re-schedule the Capability Interview for another time, and if the Participant subsequently fails to attend the re-scheduled Capability Interview, their payment will be suspended until the Participant does attend.

Preparing to conduct the Capability Interview

Before conducting the Capability Interview, the Provider must review the Participant's current Job Seeker Classification Instrument (JSCI). They must also review the Participant's record, including:

- Job Seeker Summary—for information on the Participant's DES service, upcoming requirements and Vulnerability Indicators
- Capability Management Tool—for information on the Participant's barriers to work and how these might be resolved or mitigated
- Job Plan—to ensure the requirements:
 - are up to date and appropriate based on the Participant's circumstances
 - include an appropriate level of Job Search
 - do not conflict with each other
 - do not contain excessive hours
 - factor in the Participant's individual circumstances
- the outcomes of any previous Capability Interviews or Capability Assessments.

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

3. Conducting the Capability Interview

The purpose of the Capability Interview is to ensure Participants are capable of meeting the requirements outlined in their Job Plan and that only those Participants who are capable of meeting their requirements and who wilfully or deliberately fail to meet those requirements face potential financial penalties.

The Capability Interview is not a vehicle to review the circumstances and decisions under which each Demerit was accrued—these circumstances should have been previously considered when discussing the Demerit with the Participant at the time of the non-compliance.

Getting Started

To ensure the Participant understands their responsibilities, the Provider must explain the purpose and potential outcomes of the Capability Interview. This includes the possibilities of either returning to the Green Zone or continuing in the Warning Zone, as well as the serious financial consequences of continued non-compliance.

The Provider must advise the Participant that the Capability Interview is being undertaken due to their non-compliant behaviour and that the focus is to ensure that the Participant understands their requirements and the consequences of not meeting them. Participants should understand that their Provider is seeking to better understand why they have not been meeting their requirements.

Providers should focus on the Job Plan and inform the Participant that, as an outcome of the Capability Interview, the Job Plan may require re-negotiating.

Participants should be advised that:

- most Participants take personal responsibility and comply with their requirements.
- it is important they disclose any personal circumstances that may be affecting their ability to comply with their requirements (so the Provider can set requirements appropriately).
- if needed, they will be provided with assistance to help them meet their requirements.
- they may require and receive different services as a result of the Capability Interview.
- they may be referred to the Department of Human Services (DHS) for a new Employment Services Assessment.
- continued non-compliance will result in increasingly serious consequences, including loss of income support payments.

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

The Provider must record all details of the Capability Interview in the Department's IT Systems.

Capability Interview discussion

In conducting the Capability Interview, Providers should discuss the following with the Participant:

- the Participant's understanding of their Mutual Obligation Requirements and what they must do to meet them. This may require a detailed discussion to ascertain the Participant's level of understanding of what they must do to avoid payment suspension, Demerits and Penalties
- the reasons behind the Participant's recent non-compliance and any factors that may be affecting the Participant's capacity to meet their requirements
- whether alternative activities or requirements may be more appropriate for the Participant
- any undisclosed barriers that might be preventing the Participant from meeting their requirements
- any support or assistance the Participant identifies that might better help them address any barriers to participation and assist them to better meet their requirements, including, if appropriate, training or support services that could be purchased or provided
- if applicable, how the Participant's Job Search is going, including the variety of jobs applied for and any feedback on applications or interview performance
- if applicable, what the Participant will do moving forward to increase their chances of finding paid work
- going forward, what the Participant can expect in relation to their participation requirements
- if applicable, the Participant's attempts to find and keep suitable employment, including their long-term employment goals
- the expectation that the Participant will actively meet their participation requirements, and the potential increased consequences of not meeting requirements in the future
- anything else of relevance to the Participant's capability to meet their requirements.

During discussion with the Participant, the Provider must record what was discussed in the Department's IT Systems. Based on the information recorded, the Department's IT Systems will produce the Capability Interview outcome.

Re-running the JSCL

If the Capability Interview identifies new Participant circumstances or the Participant discloses new circumstances in the course of the Capability Interview, the Provider must conduct a JSCL Change of Circumstance Reassessment (JSCL CoCR) to determine if the Participant needs a different level of employment servicing based on their circumstances and capability. The questions in the JSCL are designed to capture information related to the Participant's situation and will help the Provider identify issues affecting the Participant's capability to meet their requirements. The Provider must record the Participant's responses in the Department's IT Systems. They must also record any identified barriers in the Capability Management Tool (CMT) and when updating the Job Plan for consideration of interventions.

See the [DES Job Seeker Classification Instrument Guidelines](#) for information on the Job Seeker Classification Instrument.

Referring the Participant for an Employment Services Assessment

After re-running the JSCI, the result of the JSCI CoCR may be a referral to DHS for an Employment Services Assessment (ESAt). Alternatively, the Provider can refer the Participant for an ESAt if they believe that the Participant's capability is in doubt but they are unsure of the reasons why. The ESAt is used to determine if the Participant requires a more intensive level of servicing or should be referred to an employment program better suited to their needs.

If Providers are unsure as to whether a referral for an ESAt is appropriate, they must refer to the [DES Referral for an Employment Services Assessment Guidelines](#).

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

Where newly disclosed circumstances result in an ESAt being required and a referral made within the Capability Interview or Capability Assessment, the Capability Interview or Capability Assessment will be finalised once the ESAt appointment is booked with a result of 'newly disclosed circumstances' and the Participant will return to the Green Zone. The Participant's Job Plan will need to be reviewed and updated as appropriate to take into account the newly disclosed information and to ensure that the Participant can realistically meet their requirements.

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.

While awaiting the outcome of an ESAt, Participants can accrue further Demerits for non-compliance.

If a Participant accrues Demerits and requires another Capability Interview, and the ESAt has still not been completed due to the Participant not providing evidence to DHS or attending their assessment, the new Capability Interview will need to be completed based on the evidence and information available.

Using the Capability Management Tool

The Capability Management Tool (CMT) in the Department's IT Systems is used to record, review and manage information relating to Participant's personal circumstances that may be affecting their capacity to meet their requirements. The CMT consolidates information collected from the Capability Interview discussion, the most recent JSCI and any past ESAts or Capability Assessments.

At the Capability Interview, and based on the discussion with the Participant, Providers must use the CMT to record any identified barriers or vulnerabilities affecting the Participant's ability to meet their requirements.

4. Actioning outcomes from a Capability Interview

The Provider must explain the outcome of the Capability Interview to the Participant to ensure they understand, including what will happen next. The Provider's next steps will depend on the outcome of the Capability Interview.

Reviewing the Capability Management Tool to finalise the Capability Interview

If the Participant's Job Plan requires updating following the Capability Interview, the Provider must use the CMT to address each identified issue affecting the Participant. The Provider will record what interventions or other assistance is to be put in place to assist the Participant to meet their

requirements in the future. This includes recording that a barrier no longer impacts the Participant, or they have been offered services, but have declined. The Provider must then update the Job Plan to include requirements appropriate to the Participant's capability, including the interventions and assistance recorded against each item in the CMT.

Participant assessed as not capable of successfully meeting their Job Plan

There are a number of reasons a Participant may be assessed as not capable of successfully meeting their Job Plan.

Circumstances impact

The Provider may find that, due to the impact of personal circumstances, the Participant is not capable of meeting the requirements in their Job Plan.

For example, a Parent with caring responsibilities who is not assessed as the Principle Carer Parent, who does not have capacity to attend requirements outside school hours on certain days.

Action:

- Advise the Participant that, as they are not capable of meeting their Job Plan requirements due to their current circumstances/capacity, their Demerits will be reset to zero and they will return to the Green Zone.
- In consultation with the Participant, update the Job Plan to ensure it is appropriate.

Participant considered capable however newly disclosed circumstances

The Provider may assess and find that the Participant is ordinarily capable of meeting their requirements but, due to the Participant disclosing new information about their personal circumstances, their ability to meet their requirements at the time of non-compliance was affected.

For example, the Participant is a victim of family violence or is homeless.

This is not a review of the circumstances leading to an instance or instances of Demerit accrual; rather, the newly disclosed information informs the assessment of the Participant's overall capability at the time of the Demerit accrual. As the Participant is capable of meeting their requirements, their Job Plan does not require updating, but the Participant is returned to the Green Zone.

Action:

- Advise the Participant that, due to the newly disclosed information identified which would have affected their ability to meet requirements, their Demerits will be reset to zero and they will return to the Green Zone.
- Consider if the Job plan requires updating and advise the Participant. Ensure they understand the requirements and the consequences of future non-compliance.

Inappropriate Job Plan

If the Provider finds that the Job Plan has errors, the Participant will be assessed as 'not capable'. A Job Plan contains errors if it includes items that are inappropriate for the Participant.

For example: the inclusion of Work for the Dole, either voluntarily or compulsorily, for a Participant under the age of 18 is not permitted by policy and would constitute an error in the Job Plan.

Action:

- Advise the Participant that, as there are errors in the Job Plan that make it inappropriate, their Demerits will be reset to zero and they will return to the Green Zone.
- In consultation with the Participant, update the Job Plan to address the identified errors.

If a Participant is assessed as not capable of successfully meeting their requirements in their Job Plan, they are returned to the Green Zone with their Demerits reset to zero once the outcome is recorded.

Where relevant, the Provider must update the Job Plan at the Capability Interview to ensure it is appropriately tailored to the Participant's personal circumstances and capability. The Provider must refer to the CMT for information to tailor the updated Job Plan, including any further assistance or interventions.

The Provider must ensure that the Participant understands the requirements included in their updated Job Plan, is capable of meeting them and understands the consequences of any ongoing non-compliance.

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

Participant assessed as capable of successfully meeting their Job Plan

After recording and assessing all relevant information about the Participant's personal circumstances and Mutual Obligation Requirements, the Provider may assess the Participant as capable of successfully meeting the requirements in their current Job Plan. If the Participant is assessed as capable, they will continue in the Warning Zone, and the Provider must explain this to the Participant to ensure they understand. The Provider must record the details of the Capability Interview and the outcome in the Department's IT Systems—the Participant cannot accrue further Demerits until the outcome has been recorded. As the Participant is capable of meeting their requirements, their Job Plan does not require updating.

Action

- Advise the Participant that no reason has been identified that would prevent them from meeting their requirements.
- Advise the Participant that continued non-compliance without an Acceptable or Valid Reason may result in a Capability Assessment with DHS.
- Ensure the Participant understands the requirements in their Job Plan and the consequences of non-compliance.

Participant accrues five Demerits or commits a fast-track Mutual Obligation Failure

If a Participant has been found capable at a Capability Interview and accrues a total of five Demerit within 6 months, or if they commit a Mutual Obligation Failure that fast tracks them to the next Capability Review once they have already had a Capability Interview, the Participant will be required to participate in a Capability Assessment conducted by DHS.

See [Capability Assessment Guidelines](#) for further information on Capability Assessments.

Refer to the diagram at **Attachment A** which shows the flow of information between the Department's IT Systems and DHS' IT system.

Attachment A – Summary of required Documentary Evidence

Flow of information between the Department's IT Systems and DHS' IT system when a Capability Assessment is triggered

